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Revenue Committee
February 27, 2008

[LB922 LB931 LB1071]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 27, 2008, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1071, LB922, and LB931. Senators present: Ray Janssen, Chairperson; Carroll Burling; Abbie Cornett; Chris Langemeier; Don Preister; and Ron Raikes. Senators absent: Merton "Cap" Dierks, Vice Chairperson; and Tom White. []

SENATOR JANSSEN: Good afternoon, ladies and gentlemen. Welcome to the Revenue Committee hearings for this afternoon. For the record, my name is Ray Janssen, representing the 15th Legislative District. Those in attendance with us today are: Senator Preister to my far left; Senator Burling to his right; Senator Cornett to Senator Burling's right. And to my far right is: Erma James, the clerk of the committee; Ron Raikes; George Kilpatrick, legal counsel. The rest of the members will be showing up a little bit later hopefully. Our pages today are Sarah and Tim. A few reminders I'm sure you're all aware of. Please turn your cell phones off while you're in the hearing room. Sign-in sheets for the testifiers are on the tables by both doors. You need to complete those. They have to be completed by everyone wishing to testify. If you're...there goes one of those cell phones. Shut her off. If you're testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up to testifying. When you come to testify, hand your testifying sheet to the committee clerk over on my right, your left. There are clipboards in the back of the room to sign, if you do not wish to testify but would like to indicate your support or opposition for that particular piece of legislation. These sheets will be included in the official record. We'll follow the agenda posted on the door. The introducer or the representative presenting the bill, followed by the proponents, then the opponents, then the neutral capacity. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, state your name and spell it for the record. If you have handouts, please bring ten copies for the committee and the staff. If you have only the original, we will make copies for you and give those handouts to the pages to circulate to the committee. We're going to hear three bills this afternoon: LB1071, LB931, and LB922. We begin the hearings with Senator Karpisek to tell us all about LB1071. Senator Karpisek. []

SENATOR KARPISEK: Thank you, Chairman Janssen and members of the Revenue Committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. I'm here today to introduce LB1071, which deals with imposing an excise tax in the amount of 1 percent of all transfers of money by wire originating in this state by a licensee under the Nebraska Sale of Checks and Funds Transmission Act or an incorporated telegraph company. That's all my prepared statements. I'm just going to try to tell you what the intention of the bill is and kind of where we've come from. My LA, Alycia, and I have worked on this bill most of the interim. And what I see is a lot of money leaving the state, going other places from jobs created by some LB775 money and other tax issues

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that we helped the businesses out, the money leaves the state. Any time that I have been involved with economic development, we've always said that money will probably go around the community three times, up to seven times once it's here. My concern is that this money once it leaves the state, it's gone. And the state is putting out incentives for this money and these jobs, and we're really not capturing much of this money to stay here. My other reason is trying to find some revenue for the state. I come to this committee once in a while to ask for money. This was one time I'm trying to find us some money. Looking...the other problem that I've found, and as we've tried to look and see how much money leaves the state and how much money...where it goes, how many there are, how it all works, there's really no record. So as we were working on this, we've been asked, well, is this an antiterrorism bill or is this a...what is it? Well, it's kind of all of the above. I think that we need some better records kept. We don't know where this money is going. It's just gone. And Alycia and I have worked with...we've talked to George some, we've talked to the Banking, we've talked to banking...not only the committee, but the industry. And everyone was a help. But we just...there's not much record being kept and I think that money is just leaving and nobody really knows where or why. What we tried to do in the act, in the bill was to put in the Sale of Checks and Funds Transmission Act. Now, in the Sale of Checks and Funds Transmission Act, it states that it shall apply to the sale or issuance of checks or the transmission of money by. Nothing in this will apply to them. So it exempts departments or agencies of the United States or the state or municipal government or financial institutions. So what we're trying to do is exclude financial institutions, all the money that is wired maybe from my account to pay bills would not be included in this act. Anything...I've talked to the Cattlemen, the Farm Bureau, a lot of the other organizations. We're not intending to capture any of that money that is used in a day-to-day business to be captured by this at all. What I was...my intention was to capture the money that is just up and leaving, that is not business-related in the state. Now, that has caused a big commotion on what actually makes...what falls in and what doesn't fall in. And I'll be the first to admit that I'm not very sure and it seems like a lot of other people aren't very sure either. So the last thing I want to do is create a 1 percent tax on someone that we don't intend it to, but I do want to raise the issue. I would like to have it looked into deeper and this was about the only way that I could come up with to have somebody shine some light on the subject and find out what is really going on, where this money goes, where it come from, and is the state doing a good job by giving out some of the tax incentive money we are? And the telegraph company part plays in a little bit also on some of exemptions, which is kind of a different type of deal, but it also is in there. So with that, that is my intent of the bill, realize that there are some questions about the bill and I would be more than happy to, especially in the interim, try to straighten some of these questions out. I was hoping that once I dropped the bill, we'd get a little more closer to where we're trying to go. Hasn't been the case. Not for lack of effort on anyone's part. There's just not a lot of record. So with that, I'd be glad to take any questions. [LB1071]

SENATOR JANSSEN: Any questions? Senator Langemeier. [LB1071]

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SENATOR LANGEMEIER: Thank you for your introduction and thank you for the opportunity to talk to you about this bill a little ahead. And you've narrowed it down from some of my early concerns that you and I had talked about. [LB1071]

SENATOR KARPISEK: Um-hum. [LB1071]

SENATOR LANGEMEIER: You talked about shining a light on this--whatever we want to call it--industry happenings, events, whatever we want to call it. So you're saying that you really haven't had any lights shown on up to this point? [LB1071]

SENATOR KARPISEK: No. [LB1071]

SENATOR LANGEMEIER: And you're hoping to spend some time this summer, presuming we're not going anywhere with this I assume, with the idea that you're going to try and find that light through the summer and... [LB1071]

SENATOR KARPISEK: Well, we will definitely and we tried last summer. I'm hoping to have a little more guidance maybe or a little more help. And again, not to say that people didn't try to help. There's just not...there wasn't really no where to go to find out the statistics, those sort of things. [LB1071]

SENATOR LANGEMEIER: And I don't want to put words in your mouth, but you're not actively pursuing maybe this isn't the right piece of legislation to go ahead at this immediate point. This is the start of that discussion or the light shining, I should say. [LB1071]

SENATOR KARPISEK: Yes. That is correct, Senator. [LB1071]

SENATOR LANGEMEIER: Thank you. [LB1071]

SENATOR KARPISEK: Thank you. [LB1071]

SENATOR JANSSEN: Senator Karpisek, do you have any wire transfers at your place of business? [LB1071]

SENATOR KARPISEK: No, I do not. [LB1071]

SENATOR JANSSEN: Okay. Could that ever happen? [LB1071]

SENATOR KARPISEK: It could, but it won't. Is that what you're asking? (Laughter). [LB1071]

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SENATOR JANSSEN: Okay. All right. Senator Burling. [LB1071]

SENATOR BURLING: Thank you, Senator Karpisek. You talked a little bit about this fund. Now, we have a tax equity and an educational opportunities fund? [LB1071]

SENATOR KARPISEK: When I asked bill drafters to draw this up, I wanted this money put into the state aid to schools budget and that is the language that came back. [LB1071]

SENATOR BURLING: Okay. Rather than the General Fund. That was your goal. Okay. [LB1071]

SENATOR KARPISEK: Correct. I wanted it to go...and a little bit of my thinking on that is that some of this money that is leaving, maybe those communities, the schools could use a little more money in those areas. Of course we know that the whole state school system could use some more money. I just wanted to put it over there so it doesn't go into the General Fund and I don't want to say get lost, but get divvied up elsewhere. [LB1071]

SENATOR BURLING: Okay. [LB1071]

SENATOR JANSSEN: Any other questions? I don't see any. Are you going to stick around to close, Senator? [LB1071]

SENATOR KARPISEK: I think I'll hear some of the hopefully not too bad of stuff about this bill (laugh). But again, just want to say that I'm more than willing to talk with anyone on it and I want to, I hope to. [LB1071]

SENATOR JANSSEN: Okay. All right. Thank you. [LB1071]

SENATOR KARPISEK: Thank you, Senator Janssen. [LB1071]

SENATOR JANSSEN: We'll take proponents first. Anyone in favor? I think they're leaving. They're not in favor (laughter). Any proponents? I don't see any. Any opponents? Any opponents to the measure? Okay. How many opponents do we have? Okay. Try to tell us something new each time. There's about six of you out there. So... [LB1071]

RON SEDLACEK: Thank you, Chairman Janssen and members of the Revenue Committee. For the record, my name is Ron Sedlacek, that's R-o-n S-e-d-l-a-c-e-k. I'm here today representing the Nebraska Chamber of Commerce, as well as the Greater Omaha Chamber of Commerce, and also MoneyGram International, which is a payment system company that's utilized by a number of Nebraska either financial institutions or

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retailers. We would like to enter our opposition to the bill. Understanding Senator Karpisek's introduction, it seems that he wants to study the issue. What our concern is in a number of areas, but first of all, the way the bill is drafted, it would apply to all transactions, be it consumer transactions, individual transactions, commercial transfers. A number of the companies that are in business in Nebraska that do transfer, they do so either by direct wire transfer, they can do it by a money order under the Sale of Checks Act in Nebraska. That's the licensee that we're talking about here in addition to telegraph companies. And quite often it is less expensive to do a wire transfer as opposed to doing a bank-to-bank transaction. How this would weigh if this were to become law, you have an individual, let's say, who does a transaction...well, a good example would be and I'm not sure if any of this would relate to any of you, but I have college students and there are times when for example, the rent is due and they ran out of checks. And you find out about a day late that, you know, that money should have been paid to the landlord and they call home and ask for help. And you can do a bank-to-bank transfer, but quite often that might be like a minimum charge of \$25 plus a percentage or they don't happen to have...the landlord won't take a credit card. So you find the alternative might be to send a, you know, a Western Union wire or a MoneyGram wire, whatever...for example at U.S. Bank, they have MoneyGram. So that would cost, I believe, \$9.99 and there might be a little fee depending upon if it's over or under. But from what I understand, the majority of these transactions, of course, are either a domestic nature or of a...and then there are some commercial transactions as well. So this essentially is taking...that was with just an additional 1 percent just being taken out of the gross of what you're trying to do, a simple transfer. You can evade it by sending a money order as opposed to a wire transfer. You might be a little bit more time involved in that regard. But this doesn't, as I read it, look to money transfers. But the postal service is another competitor, a government competitor. And so essentially we're putting private operations and giving a disincentive to use the private operation, as opposed to the Postal Service. So I'm not sure if that's the type of policy this committee would want to endorse and to recommend to be a law here in Nebraska. As far as records, certainly cash transactions of over \$10,000 or more, those are subject to currency transaction reports regardless of whether those transactions are at a financial institution or you're dealing with a wire transfer of this type, a CTR would have to be filled out under federal U.S. Treasury rules and regulations. So from that angle, the large dollar amounts would certainly have records. But I'd be happy to talk with Senator Karpisek in regard to the impact that this bill would have, particularly on commercial transactions, as well as individuals. And I'll leave other testimony to the witnesses that follow. But I'd be happy to answer any of your questions. [LB1071]

SENATOR JANSSEN: Any questions? I don't see any, Ron. Thank you. [LB1071]

RON SEDLACEK: Thank you very much, Senator. [LB1071]

SENATOR JANSSEN: You bet. Next proponent...opponent, excuse me, opponent.

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[LB1071]

HERBERT RHODES: Chairman Janssen, members of the Revenue Committee, for the record, my name is Herbert Rhodes, H-e-r-b-e-r-t R-h-o-d-e-s. I'm testifying before you representing Nebraska Cattlemen as their chairman of the marketing and commerce committee. Nebraska Cattlemen board of directors voted to oppose LB1071 and I'm to testify in that capacity. We have spoken to Senator Karpisek to outline our concerns with the bill, which I will go into some detail in my testimony. In agriculture, we use wire transfers regularly and, in some instances in our business, exclusively. Cattle transactions occur when fat cattle are sold, and you're talking in terms of seven to eight loads customarily to some extent shipped from various feed yards. And that fee would represent \$7 or \$8 per head. On six loads of cattle, that would be an additional \$2,400 just for the wire transfer. And more transfers, as some of you know, are not cheap. In and of themselves, you're talking about \$35 just per transaction. So you'd be adding another \$2,400 just for the excise tax that would be incurred by many of our feed yards in doing their business. That's oftentimes grain transactions are done with wire transfers and it's not unusual to have 100,000 bushels of corn or other types of grains being sold and being paid for by wire transfers. You're looking at approximately a sale of 100,000 bushels at today's price of corn, close to \$500,000. Then it'd be an additional \$5,000 just for the 1 percent excise tax. Risk management operations, both from the perspectives of your brokers as well as traders who are basically involved with wire transfers almost exclusively with their financial institutions, it's not unusual for these transfers to be in excess of \$100,000. So you're looking at an additional \$100,000 per wire transfer to many instances would take care of margin requirements with broker fees and broker concerns. Our calf operators would be affected due to pasture rents. Pasture rents oftentimes are done by wire transfers and they can be, you know, determined on what your agreements are with your landlord, they can be rather excessive too when you attach to that a wire transfer fee of 1 percent. Feed bills paid to custom feed yards by feed cattle investors, often done by wire transfers. This would also involve would be weekly and biweekly charges that would be taxed with this 1 percent fee. In summary, this 1 percent excise tax would adversely affect the cattle industry here in the state of Nebraska. I would like to thank Senator Janssen and the Revenue Committee for the opportunity to shed some light on how LB1071 would bring financial harm to the beef industry and agriculture if passed. I would urge you not to allow LB1071 to be moved out of the Revenue Committee as it is currently drafted. It is all inclusive in this format that we have here. With respect to Senator Karpisek, he has indicated that this would be narrowed up upon him receiving additional information. I would urge you, again, not to allow LB1071 to be moved out of the Revenue Committee. And if you have any questions to ask of me, I'd be willing to share with you some insight and answers. [LB1071]

SENATOR JANSSEN: Mr. Rhodes, I have one. You say it's \$7 a head on that wire transfer, and there's a lot of times and I'm sure that Senator Raikes can allude to this

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that there isn't \$7 a head margin in cattle on occasion. [LB1071]

HERBERT RHODES: That's true too. [LB1071]

SENATOR JANSSEN: So that would be like rubbing a little salt in the wounds, wouldn't it? [LB1071]

HERBERT RHODES: In today's market, that's very true. Margin is already tight. [LB1071]

SENATOR JANSSEN: I see. Yeah. Any other questions? I don't see any. Thank you for being here, Mr. Rhodes. [LB1071]

HERBERT RHODES: Okay. Thank you very much, sir. Thank you to the committee. [LB1071]

SENATOR JANSSEN: Next opponent, please? [LB1071]

KATHY SIEFKEN: (Exhibit 1) Senator Janssen and members of the committee, my name is Kathy Siefken, S-i-e-f-k-e-n, here today representing members of the Nebraska Grocery Industry Association. And we are opposed to Senator Karpisek's bill for a number of reasons and I've handed out the points in my testimony. First of all, it doesn't appear in the bill that it refers to "a company or the licensee" and if the company is the retailer and the retailer has to collect and remit, it's very difficult for us because when we do a wire transfer, our customers go over to a council that either MoneyGram or Western Union sets up and we plug in the figures, and then MoneyGram and Western Union take control of that transaction and those funds from there on out. So in order for...if this bill means that a company, in other words the retailer, is the one that has to collect and remit, we can collect, but we cannot remit because we don't have the funds. Those funds all go to the wire transfer company. So that would be a huge issue for us. In addition to that, the users of this service are...a lot of the users are the unbanked. And the unbanked are minorities, they're low-income. According to a survey that was conducted by the Federal Reserve back in 2001, 9 percent of the families in the United States are unbanked, and that's about 10 million families. And what those families do is they find economical ways to transfer funds and this is one of the ways they do that. Compared to a bank, an ACH transfer, those funds are more expensive to transfer with a bank ACH. And I called my bank this morning and they are telling me that a domestic wire transfer would be \$15. If it's an international transfer, then it's \$50. Compared to a transfer through MoneyGram or Western Union, it would be \$10 if you want next day service, and it would be \$15 if you want immediate service. So the fees...and also on the bank side of it, my understanding is that there's also a receiving fee. So it's a very expensive transaction to go through a bank. We offer an alternative through the grocery stores, and a lot of people use that. In addition to the unbanked, we also have people

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that are trying to beat the late credit card fee or a late house payment or a late car payment. And generally speaking, the reason people are late on paying their bills is because they don't have the money. And so what you're really doing is you're going after, it appears to me, the lower-income segment of our population with an excise tax. Another concern that we have is border bleed. When you have the majority of our citizens in border towns, say Omaha for example, people are just going to go across the bridge and we're going to lose that business to Iowa. And we're already losing enough business to Iowa as it is. So we really don't want to send people over there. In addition to that, this is a broadening of the tax base and we just simply don't feel comfortable assessing an additional tax on people that we believe would be a lower income segment of society. And then one other thing that I did want to add that isn't on the sheet that I gave you is Senator Karpisek said that no one is keeping track of the money that's transferred. And I can tell you that as a money order company, the Nebraska Grocery Industry Association has its own money order company that we operate out of our office. And I can tell you that the U.S.A. Patriot Act requires anyone who transfers more than \$3,000 in cash to keep track of details as to where that money goes. So there are records out there. The federal government holds them. And I would imagine there would be other ways to access that information, and we'd be happy to work with Senator Karpisek on those type of things. But we would be happier if you would kill the bill. So with that, if you have any questions, I'd be happy to try to answer. [LB1071]

SENATOR JANSSEN: Any questions? Kathy, I have one. How in the world...how is this going to affect a grocery operation? If they wire that...now, do some stores have wire... [LB1071]

KATHY SIEFKEN: Many of the stores that sell money orders also do wire transfer. [LB1071]

SENATOR JANSSEN: Okay. [LB1071]

KATHY SIEFKEN: And the way it's set up is MoneyGram or Western Union are the two most prevalent in Nebraska. And they'll come in and they'll just set up their equipment and they sell those money transfers, those wire transfers, you just go to the courtesy counter and say, I want to transfer money. [LB1071]

SENATOR JANSSEN: Well, yes, but shouldn't the recipient of that order be paying that fee? [LB1071]

KATHY SIEFKEN: Should the recipient...this says the originator pays the fee. [LB1071]

SENATOR JANSSEN: So they would be the originator, which would be that... [LB1071]

KATHY SIEFKEN: Which is the people that come into our stores. [LB1071]

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SENATOR JANSSEN: Yeah. [LB1071]

KATHY SIEFKEN: And then it says that the licensee or company and my concern is that when the company...company is not defined and we're the retailer, if we are the company and we're required to remit those funds, it would be very difficult to do so. We don't have those funds to remit. All of those funds are transferred. We don't have control of those funds. They are immediately wired out to the wire transfer company. So we couldn't remit them to the Department of Revenue. We don't have them. [LB1071]

SENATOR JANSSEN: Okay. Any other questions? Seeing none, thank you, Kathy. [LB1071]

KATHY SIEFKEN: Thanks. [LB1071]

SENATOR JANSSEN: Next opponent. [LB1071]

JENNIFER CARTER: (Exhibit 2) Good afternoon, Chairman Janssen, member of the committee. My name is Jennifer Carter, C-a-r-t-e-r, and I'm the registered lobbyist for Nebraska Appleseed. We are testifying in opposition to this bill. In part, we advocate on behalf of low-income Nebraskans, children in the foster care system, and new immigrants, and we are opposed to this bill for the affect it may have, as you've heard, on low-income Nebraskans. But also it will have a significant affect on the immigrant community in Nebraska. And we have a good deal of experience at Appleseed working with some other national groups studying international remittances, and there's a note of some of the guides we've put together, and we'd be happy to get those to you if you think they're helpful. But the main point is that to the extent there's some concern about the amount of money that would be going overseas to other immigrants families, we would just want to point out that actually 90 percent of earnings from immigrant families stay in the local communities. And to the extent that there is an amount going abroad, we feel that is actually probably in line with Nebraska values in terms of taking care of your families. And we expect that of people here and that's what these families are trying to do as well. Also as was mentioned, we're concerned that it's going to have a great impact on low-income families who often use wire transfers to pay their bills. And frankly it would actually affect anybody who's just, you know, wiring money to their kid in college in Ohio or something and that is also a concern. And separately, one other point we wanted to make is just generally when we're talking about these issues, we think that there are often misperceptions about the costs of immigration versus the economic benefits. And obviously we understand there are some costs, but more and more research is showing the great economic benefits that are more than the cost of immigration. And in fact, even Alan Greenspan, we have a quote in our testimony testified in front of Congress that, you know, the perception that they're a drain, actually the opposite is true. They pay more than their fair share actually in taxes and in

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generating economic activity in local communities. And we have other...I had hoped to hand out two fact sheets. We handed out one and I'll get the second one to you later. But we're happy to take any questions and we would just ask that the committee not to advance the bill at this time. [LB1071]

SENATOR JANSSEN: Any questions? Seeing none, thank you, Jennifer. [LB1071]

JENNIFER CARTER: Thanks. [LB1071]

SENATOR JANSSEN: Any other opponents? [LB1071]

JIM OTTO: Senator Janssen, members of the committee, my name is Jim Otto, last name is spelled O-t-t-o. I am a registered lobbyist for the Nebraska Retail Federation, and I'm testifying in opposition to LB1071 on behalf of the Nebraska Retail Federation. I won't take much time. I think most things have already been said. Would just summarize that the bill is going to impact low-income people. It's going to impact agriculture. It's going to impact parents sending money to their children. Kathy Siefken has pretty much itemized the reasons why our organization also is opposed. And with that, I would just be glad to try to answer a question. [LB1071]

SENATOR JANSSEN: Any questions? Seeing none, thank you, Jim. Any other opponents? [LB1071]

MICHAEL COX: Chairman Janssen, members of the committee, thank you for your time. My name is Michael Cox, M-i-c-h-a-e-l is my first name, last name is Cox, C-o-x. I own a company called Asset Appraisal Services. We're based in Omaha, and I am representing myself, I guess. We're not currently regulated under the Nebraska Sale of Checks and Funds Transmission Act. But both our legal counsel and myself feels that it's possible in the future we could be. We conduct a business of appraisals on heavy duty construction equipment, transportation equipment, and farm equipment. And in doing so, we work with financial institutions across the United States that finance these items. And one of our products is an auction system that enables them to sell the equipment back to their dealer networks. In doing so, we collect about \$100 million a year in receipts that are wired to us, and we wire the money back out to the respective financial institutions. This particular bill, if we were affected by the checks act, would have cost us roughly \$600,000 last year. We just simply can't have something like that. So we remain opposed to it. And I guess I'd ask the committee, just in closing and I want to be brief, to really consider what 1 percent really is because 1 percent on a \$10 money order isn't a lot of money. But when you're talking about 1 percent on a \$100,000 transaction, then it's adult money, so to speak. So Asset Appraisal Services would like to go on the record as being opposed to this bill. Any questions? [LB1071]

SENATOR JANSSEN: Any questions? Seeing none, thank you. Any other opponent?

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[LB1071]

ANGEL FREYTEZ: (Exhibit 3) Good afternoon, Senator Janssen and committee members. My name is Angel Freytez, and it's spelled F-r-e-y-t-e-z, and I'm the public information officer for the Mexican-American Commission, a state agency located here in the Capitol Building. So you members of the committees and Senator Janssen, you guys are more than welcome to stop by at any time at our office. I'm here today to testify in opposition to LB1071, which would impose a 1 percent tax on all wire transfers initiated within Nebraska's boundaries. In Nebraska, there are 36 companies licensed to provide money transmission services within the state, including well known companies like Western Union, MoneyGram and PayPal. I want to explain a little bit about the situation, about the good example of PayPal. A home based company like PayPal would have a difficult time trying to retain their current business if the state imposes taxes on their customers. In 2006, PayPal operated in 103 markets and managed over 155 million accounts, generating a revenue for \$439 million during the last year's first quarter. PayPal is definitely another Nebraska success story and we should take pride for that. Finally, LB1074 (sic), just to make a quick summary, would technically give the opportunity for a large group of unlicensed and foreign e-businesses to continue operating in our state and benefit from the situation. For instance, in companies like Net Tel or i-Kobo, Travel Work (phonetic), Revolution Money, you name it, from this law, they will benefit because they won't have to tax their customers, while home-based companies like PayPal and 36 more companies will have to pick up the tab. In conclusion, we believe that LB1071 will do serious damage, not just to Nebraskan consumers, but also it will affect Nebraska's economy over the long run. Last year alone, Latino immigrants sent over \$150 million to their native countries. However, 90 percent of their income stayed here in the United States. Therefore, I respectfully urge you to oppose this legislation. And I'll be glad to answer any more questions? [LB1071]

SENATOR JANSSEN: Any questions? Seeing none, thank you for being here. [LB1071]

ANGEL FREYTEZ: Thank you. [LB1071]

SENATOR JANSSEN: Any other opponents? Anyone in a neutral capacity? Seeing none, Senator Karpisek to close? [LB1071]

SENATOR KARPISEK: Thank you, Chairman Janssen. Just closing quickly, and I don't want to start a fight out of this because I did not intend to. My thinking is that most ag wire transfers go from financial institution to financial institution. If that is not the case, again, that was not my intention of the bill. I would think that an auction barn, if they send money, it goes from their bank to your bank. So I would think that that would not be included. If I'm wrong on that, I've been wrong before. Again, about \$25 billion a year goes from the United States to just one country that's wired out. And that is more than the whole U.S. foreign aid budget. That is what I'm getting at, that there's a lot of money

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leaving that is not staying here. And again, I feel that the state has bent over backward to try to give some tax rebates to create jobs, to create good jobs and keep the money here. That's the intention of my bill and I will be more than happy to try to work with people, especially Kathy, over the interim to try to find some of those stats because I sure couldn't find any when I was looking. But with that, I will take any questions. [LB1071]

SENATOR JANSSEN: Senator Cornett. [LB1071]

SENATOR CORNETT: Just a quick one, Russ. When you opened on your testimony, you were talking about trying to find out where LB775 benefits, tax incentive benefits when. But in the last part, you mentioned money leaving the country. What is your intent to find out how much money is leaving the state of Nebraska for overseas or for how much...not overseas, but outside the boundaries of the United States or how much money is leaving the state of Nebraska based on tax incentive programs that we've implemented? [LB1071]

SENATOR KARPISEK: Well, I think they kind of go hand in hand. First, I'd like to see how much is leaving the state, and then... [LB1071]

SENATOR CORNETT: In whole? [LB1071]

SENATOR KARPISEK: In whole. And then...I mean, are these jobs that we have created by giving tax incentives and, you know, we've...I haven't been here that long, but I've followed the argument on some of those. So are we really getting the bang for our buck is I guess what I would like to see because I support tax incentives. But I think we need to make sure that we... [LB1071]

SENATOR CORNETT: Okay. Because in your closing it almost sounded like you were trying to find out the amount of money that was leaving the United States from the state of Nebraska, which would be related to international wire transfers. [LB1071]

SENATOR KARPISEK: I'd just like to see where it goes. I'd like to see each different state, if I could, and each different country if I could just to see what's going on with it and if our tax incentives are working for what we intend them to do. [LB1071]

SENATOR CORNETT: So your main area of focus would be where tax incentive or monies generated by our tax incentive programs will be implemented is going if it's leaving the state of Nebraska. [LB1071]

SENATOR KARPISEK: Yes. Yes, Senator. [LB1071]

SENATOR CORNETT: Okay. Thank you. [LB1071]

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SENATOR KARPISEK: Thank you. [LB1071]

SENATOR JANSSEN: Any other questions? Seeing none, thank you, Senator Karpisek. That's the end of the hearing on LB1071. And we are going to have a change in the agenda. Senator Dubas is going to go ahead of Senator Cornett with her consent. Senator Dubas to tell us all about LB922. [LB1071]

SENATOR DUBAS: I'll do my best. Thank you, Senator Janssen, members of the Revenue Committee. My name is Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s, and I represent the 34th Legislative District. LB922 creates the Cellulosic Biomass Renewable Energy Initiative. The initiative is designed to create incentives for advanced cellulosic and biomass technology. It will provide a flexible package of incentives for applied research, demonstration projects, and production aimed at increasing private sector investment and attracting federal funding for advanced cellulosic and biomass technology. Second generation cellulosic ethanol and biomass production will assist Nebraskans to pursue the opportunities presented by the Federal Energy Independence and Security Act of 2007 that Congress adopted late last year. Funding for this program will be available for loans, grants, and incentives. All incentives must be used for projects that establish biofuel production facilities in Nebraska, and that obtain at least 50 percent of their biomass feedstock from Nebraska. In addition to cellulosic pilot programs, facilities that produce syn-gas, synthetic oil, and those facilities that install and adopt cogeneration technology will also be eligible. There's a specific provision allowing public power districts to be eligible for pilot projects also. The funding mechanism in this program includes three excise taxes on industries that have profited from ethanol development: oil, natural gas, and railroads. The fund will have approximately \$10 million available for projects. It would be capped at that \$10 million and it also has a 5-year length of life, I guess, for the program. I'm hoping that there's going to be some technical experts that will follow me that can answer the more technical aspects of this program. My knowledge is at best surface when it comes to what all of these various types of energy productions are. I do know that we have a plant in York that has worked on the development of cellulosic ethanols. But because we didn't have the specific types of incentives in place, they took the production of that ethanol to Kansas. When we hear ethanol, we tend to think corn and that corn-based ethanol has provided Nebraska many, many benefits over the years. But I think we've kind of reached a point where it's time for us to look at what other opportunities are available for ethanol production. The research is showing that switchgrass and other things have the ability of producing ethanol with a much higher energy efficiency. And so again, because of what the federal energy program is going to mandate as far as production of alternative energy, especially the cellulose. And I think this would position our state to take advantage of those mandates. I see no reason in the world why Nebraska shouldn't be a leader in this. We've led with corn-based ethanol production. We have all of the resources to expand that production into other areas. I

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think it can serve us as far as economic development and allow us to be a leader in this type of generation. So I'd be happy to try to answer any questions that you might have. [LB922]

SENATOR JANSSEN: Any questions? Ron. [LB922]

SENATOR RAIKES: Annette, how many megajoules does that plant in York produce? [LB922]

SENATOR DUBAS: I can't tell you that for sure, Senator Raikes. [LB922]

SENATOR RAIKES: Do you know what a megajoules is? [LB922]

SENATOR DUBAS: I've had it explained to me, but I couldn't explain it back to you. [LB922]

SENATOR RAIKES: Oh, okay. The idea of cellulosic ethanol production, you get more ethanol from an acre. Is that true? [LB922]

SENATOR DUBAS: That's my understanding, yes. [LB922]

SENATOR RAIKES: But you get no feed by-product. [LB922]

SENATOR DUBAS: Not from the switchgrass, no. It's a different type of by-product than the corn-based is. [LB922]

SENATOR RAIKES: So you would be taking land out of food and feed production and putting it strictly to fuel production. [LB922]

SENATOR DUBAS: Well, what I think we would look at is land that is more marginal, that maybe isn't as good for production of food-based products could be used for the switchgrass and other things. [LB922]

SENATOR RAIKES: But to some extent I'm on the right track there that you are...with corn, you are taking food or feed production land and you're saying, okay, we're going to produce some feed and some fuel. With cellulose you're saying, we're not going to produce any feed, it's going to be all fuel. [LB922]

SENATOR DUBAS: Right now I believe that would be correct, yes. [LB922]

SENATOR RAIKES: Okay. Thank you. [LB922]

SENATOR JANSSEN: Senator Cornett. [LB922]

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SENATOR CORNETT: Senator Dubas, one of the reasons that--if I'm not mistaken and please correct me if I'm wrong--that the industry is looking at using switchgrass as a means of producing fuel is that it is a much more water conservative product to grow. And that with some of the water shortages that we have around the state, instead of irrigating corn and incentivizing ethanol through corn production, there is a feed by-product that switchgrass is probably more environmentally sound. [LB922]

SENATOR DUBAS: There is that line of thinking. I mean, there will also probably be the argument that switchgrass takes water to grow too. So there's going to have to be information as far as, well, how much water does it take to grow the switchgrass. [LB922]

SENATOR CORNETT: I was going to say, you wouldn't have the details on whether switchgrass... [LB922]

SENATOR DUBAS: I don't, but I think I could probably get those questions for you. But that is the thought process that we have areas of the state that are water shortage areas. And if there are other types of crops that we can grow to use for energy production that aren't as reliant...there's tropical maize, there's a lot of different types of products that are out there that are still relatively new and in the infancy stages. But the thought is that if we can find things to grow that aren't as dependent on water, that would help us. [LB922]

SENATOR CORNETT: But as we try as a state to put more and more land into conservation easements where you can still produce crops as long as irrigation isn't required, might not some of these crops be a better idea looking at for ethanol? [LB922]

SENATOR DUBAS: I think it does afford us those opportunities, yes. [LB922]

SENATOR CORNETT: Thank you. [LB922]

SENATOR JANSSEN: Senator, how is the conversion rate in switchgrass to corn? [LB922]

SENATOR DUBAS: Switchgrass has a higher energy conversion rate, but I don't know the... [LB922]

SENATOR JANSSEN: It does have a higher energy conversion rate? [LB922]

SENATOR DUBAS: Um-hum. [LB922]

SENATOR JANSSEN: I would think it would be the opposite. But there is no other

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marketable thing to come out of that switchgrass. [LB922]

SENATOR DUBAS: Right. To my knowledge, the by-product...like with the corn-based ethanol we have the distiller's grain that the livestock industry can use. Now, to my knowledge--I won't swear to that--but to my knowledge, the by-product of switchgrass doesn't have that capacity. [LB922]

SENATOR JANSSEN: Okay. Thank you. Any other questions? Seeing none, thank you. Are you going to stick around to close? [LB922]

SENATOR DUBAS: Yes, I will. [LB922]

SENATOR JANSSEN: Okay. We'll take proponents first, those in favor of the bill. Anyone in favor? [LB922]

TODD SNELLER: Mr. Chairman, members of the committee, my name is Todd Sneller. I represent the Nebraska Ethanol Board and I'm here on behalf of them today in support of the bill. With regard to the opportunity at hand, I would take a look back what the Legislature did in terms of providing incentives for corn ethanol and take a look at that from 1991 to present, that investment by the state has yielded 20 operating plants and another 7 under construction. That's on a way to meet a corn-based ethanol goal the federal government has set of 15 billion gallons of corn-based ethanol by 2012. Beginning in 2012, we must start adding to the biofuel supply, the biomass drive to ethanol supply in the United States. That number begins to go from 15 billion gallons of ethanol produced from corn to 36 billion gallons of ethanol, the second increment of which must all come from biomass or cellulose-based materials. So as we take a look at the opportunity we've had in Nebraska to present, it's been with grains. The opportunity of the future, which would more than double what we have done nationally over the past three decades, is in front of us and it comes from cellulose. And so the question from my perspective as somebody who's tried to recruit biofuel plants to the state is what will the policy of the state of Nebraska be with regard to trying to compete for that business activity. Clearly there are a number of feedstocks that are suitable. Several have been mentioned in the previous testimony, and there are many others that come from agricultural resource. But also landfills, from a variety of wood processing wastes, and a number of other biomass feedstocks that can be used in Nebraska and other places. Nebraska is well suited to capture on the opportunity. The first, precommercial installation that we have in Nebraska is at York, Nebraska. It is tied directly to a grain-based plant, but it's using at this point, wheatstraw and corn stover to make ethanol on a precommercial scale basis. We actively tried to recruit that company, Abengoa Bioenergy, to build its first commercial scale plant, which is a 100-million-gallon-a-year plant with a capital cost of \$300 million. And they listened to our presentation, but have located that facility in Kansas. We have been unsuccessful today in gathering any of that activity. We've been very successful, obviously, with the

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corn-based incentives because we had an incentive program that was specifically designed for that and a public policy that encouraged that activity in the state. We have no such policy with regard to biomass feedstocks today and the incentivization of these types of technologies in commercial investments in Nebraska. And so I'm asking for your consideration of a bill like this that proposes a proactive stance on the part of the state of Nebraska that allows those of us who are involved in trying to recruit these biomass biofuel plants to the state to have the type of tools that we've had in the past to allow us to be successful and competitive with other states. And to take a look at the opportunity, which is an immense opportunity for Nebraska in terms of using a lot of different types of biomass and waste resources that could be used as feedstocks for ethanol production in the future. That is the opportunity at hand here, and I'd ask for your consideration of supporting a public policy that gives us an affirmative action plan with regard to biofuels in Nebraska. With that, I'd conclude and be glad to respond to any questions, Senator. [LB922]

SENATOR JANSSEN: Senator Cornett. [LB922]

SENATOR CORNETT: Just one question. Where is the industry in being able to break down the cellulose in the cornstalks themselves? I know that that is a goal that they have been working on. Any conjunction with producing ethanol from grain and the by-product of feed for the cattle if you're using the stalks also? [LB922]

TODD SNELLER: The technology for breaking down the stalks is here now. It's 100-year-old technology, frankly, and that's not been an issue so much of the technology, it's economics really. [LB922]

SENATOR CORNETT: It's the economics. Okay. That's probably a better way to put it. Where are they technologically to break it down in an economic manner? [LB922]

TODD SNELLER: Every educational and research institute I'm aware of today would say in two to five years it will be competitive with corn. I'm not sure I conclude the same answer today because I've not seen that in a commercial setting. But I think the challenge remains for the commercial rollout and the federal support for that and the private sector support for that today is immense. We've seen some 60 companies with literally billions of dollars of capital investment today both in the technology and in the equipment that goes into processing. There are six different companies that have received grants and awards totally \$345 million so far, federal dollars, that are designed to be the first commercial rollout of those plants. And the Abengoa Bioenergy plant in Kansas is one example of that. That's expected to be operational within a three-year period. So it's very near term, the first commercial alcohol from biomass resources must, by federal law, be in the marketplace by 2012. So in my view, we're into a four-year period here in which that technology has got to be advanced and deployed commercially. What I think is a real opportunity in states like Nebraska is we've got the

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infrastructure here in terms of companies like Abengoa and others that are very sophisticated in their scientific capabilities. They've attracted partners like Novozymes, an international company that develops the enzymes for this conversion process. So the opportunities for research and commercial development in Nebraska are significant, and that's clearly within a four-year time frame. [LB922]

SENATOR CORNETT: Let me ask one more question because I've read a number of articles on this, and some of them were fairly dated, that some of the inherent risks with the enzymes in breaking down the cellulose is quite a bit greater than with the distiller's alcohol from grain. Is that correct? [LB922]

TODD SNELLER: I'm not sure I understand. [LB922]

SENATOR CORNETT: The enzymes are inherently more dangerous in... [LB922]

TODD SNELLER: The enzymes are...not typically. There are a number of processes that are viewed as having more or less challenge in terms of managing any waste that might come as that. Enzyme technology typically is not termed or considered to be dangerous in those respects. There's an acid hydrolysis technology that's been used in the past. It's kind of old-school technology where you'd have to deal with these acids and figure out a way to mitigate those and handle those. But I think one of the reasons that we're seeing a move toward gasification, toward enzymatic technologies is that those are viewed as more benign, easier to permit, easier to manage in terms of waste remediation. [LB922]

SENATOR CORNETT: Thank you. [LB922]

TODD SNELLER: Sure. [LB922]

SENATOR JANSSEN: Any other...Ron. [LB922]

SENATOR RAIKES: You said that we have 20 corn ethanol plants in the state now. And you said that was because of our incentive policy. How many of those plants, those 20, have actually received production incentives from the state? [LB922]

TODD SNELLER: I believe 13. [LB922]

SENATOR RAIKES: So there's seven of them that have been constructed and are operating without any. [LB922]

TODD SNELLER: Correct. Those would have been the ones that are most recently constructed. In a few cases, the more recent plants did. But there are several under construction today and a couple in operation today that did not receive incentives.

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[LB922]

SENATOR RAIKES: So are there any that are not yet in operation that would receive incentives under the program? [LB922]

TODD SNELLER: Cambridge would be one that's under construction not yet in operation that's eligible. And McCook not yet under construction that conceivably would be eligible if it could be constructed by 2012. Its time allocation and dollar allocation has been diminished because it's not been in operation for a period of time. But it could qualify through 2012 once it became operational. But its... [LB922]

SENATOR RAIKES: So it almost...I guess the impression I get is that to some extent the incentive program didn't really make that much difference, particularly in recent years. You have places where plants could have been built and receive the ethanol incentives and weren't built. You had places where plants couldn't receive the incentives and they built them anyway. [LB922]

TODD SNELLER: I respectfully don't share your view on that. By June of 2004, any plant that was eligible to receive incentives had to be in commercial operation. And in June of 2004, the prospect of commercial ethanol development was still a fairly risky proposition. As you can recall, that was not a time of great profitability. It was a time of real uncertainty in terms of what the federal government was going to do in terms of a biofuels program or policy. So those incentive...the deadline for qualifying for the incentives that are currently being received was that a plant had to be in commercial operation by June 30, 2004. [LB922]

SENATOR RAIKES: But you're not really arguing with my point. You're saying that at the time that there was a lot of risk, the incentives... [LB922]

TODD SNELLER: Played a very useful role. Um-hum. [LB922]

SENATOR RAIKES: ...played a role. Since that time, they have not is my point and I think you're agreeing with that. [LB922]

TODD SNELLER: Yeah. And for several reasons obviously. We have a known marketplace right now, profitability is easier, cost of construction went down significantly. There are a whole host of factors that made that a far less risky proposition. And the best test of whether or not my hypothesis is accurate is to the flow of capital increased by four- or fivefold when it had previously. We saw a huge influx of capital to build those plants, even though they didn't qualify in some cases for financial incentives. Because the marketplace was known, the public policy was known, the process technology was known, the cost of construction went down, the equity requirements were significantly smaller. [LB922]

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SENATOR RAIKES: So the market basically trumped the incentive program. [LB922]

TODD SNELLER: The market matured to the point where it became receptive and profitable. And as a result of that, we saw a flow of capital come into the sector. [LB922]

SENATOR RAIKES: Okay. The other point, is there a mandate of some sort of a federal mandate that you have to produce ethanol via cellulose? [LB922]

TODD SNELLER: Beginning in 2012, yes, there is. Each refiner is required under a federal formula to incorporate a certain percentage of biomass-derived ethanol or advanced biofuels. There are actually three classes: conventional ethanol, advanced biofuels, and cellulose biofuels. Beginning in 2012, there's a federal requirement that refiners who market gasoline in the U.S. use a certain percentage of those types of alcohols, the new alcohols. [LB922]

SENATOR RAIKES: So you got three categories. One of them is corn... [LB922]

TODD SNELLER: Conventional corn ethanol, advanced biofuels, and cellulosic ethanol. [LB922]

SENATOR RAIKES: Okay. What would be advanced... [LB922]

TODD SNELLER: Advanced biofuels might be different types of complex alcohols that are mixed together: Alcohol-ether combination that are mixed together, bio-oils that are mixed together with alcohols and ethers. So there's a class called advanced biofuels that it's a specific... [LB922]

SENATOR RAIKES: What's the feedstock for that? [LB922]

TODD SNELLER: It could be everything from waste materials that are extracted from landfills to compounds that are gasified, even tires that are gasified, and a chemical stream convert is extracted from there, and one of those streams might be ethylene from the ethanol's refined. [LB922]

SENATOR RAIKES: Okay. And then the third category would require... [LB922]

TODD SNELLER: Is literally biomass cellulose-derived alcos. [LB922]

SENATOR RAIKES: So that could be...switchgrass is often mentioned, but that's not the only. [LB922]

TODD SNELLER: That would be part of the cellulose. [LB922]

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SENATOR RAIKES: But you don't have to do switchgrass. You could...corn stalks would work or... [LB922]

TODD SNELLER: Anything but corn starch would qualify for that increment of 21 billion gallons between 2012 and 2022. [LB922]

SENATOR JANSSEN: Abbie. [LB922]

SENATOR CORNETT: One more and I'm going to be done, Todd, and I'm sorry. I just want to make sure that I'm clear. You testified that the incentive programs helped get the ethanol industry started in the state of Nebraska and as it has matured, we're not as reliant on those incentives any longer. You want an incentive program to do the same for the biomass industry. So since the ethanol industry from corn has matured, should we stop those incentives that we are currently giving you for corn and move that into the biomass industry? [LB922]

TODD SNELLER: There are no new incentives. [LB922]

SENATOR CORNETT: No new, but how about the old, the ones that are already there? [LB922]

TODD SNELLER: There's a contract that protects those who became eligible. That would be a serious breach on the part of the state and frankly, it would send all the wrong signals about whether or not the state of Nebraska is good to its word when it enters into those agreements. [LB922]

SENATOR CORNETT: So keep incentivizing something that has matured to where it really doesn't need to be because we're under contract, but then further incentivize the new industry. [LB922]

TODD SNELLER: Yes. [LB922]

SENATOR CORNETT: Okay. [LB922]

SENATOR JANSSEN: Any other questions? I have one, Todd. Did I hear you right when you said all incentive plants will have to be able to produce the biomass that are in production right now by a certain time or a date certain? [LB922]

TODD SNELLER: Those plants that are currently in operation will meet the requirement for the first 15 billion gallons of ethanol required by the United States by 2012. There's a federal requirement that ratchets up that requirement for ethanol use every year after that in greater amounts every year. And of that greater amount that's required, some

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must be in the class of advanced biofuel and the majority of it must be in the class of cellulose, ethanol or cellulose biofuels. So that the easy alcohol to make is made from grain. That's the first 15 billion gallons. And then that next increment, that's a significantly larger increment, up to 36 billion gallons must come from either these exotic resources, whether they be useful waste or whatever, a small part of those called advanced biofuels. But the bulk of those, 16 billion gallons, must come from cellulose. And there's an increment... [LB922]

SENATOR JANSSEN: That's a federal regulation? [LB922]

TODD SNELLER: That's a federal requirement, federal law enacted in December of 2007. [LB922]

SENATOR JANSSEN: All right. Thank you. Abbie. [LB922]

SENATOR CORNETT: And I'm not saying this year, but if in the future we decide to do some type of an incentive for the cellulose, would you be willing to accept a program where we were not locked into those permanent contracts when the industry matures? [LB922]

TODD SNELLER: The financial community would not. We have tried the incentive program a number of different ways, and I've tried to provide the best advice I can on how those should be crafted as you've contemplated different approaches. And I can tell you that when we tried investment programs and grant programs, it simply has not been viewed as a stable incentive. And so we went to what was viewed as a performance-based incentive where if a company invested capital and built a facility and created jobs and processed corn or other grains and had the finished product made, then once they had done all of that, then they were eligible to receive incentives that were covered by the contract. Now, the sanctity of that contract is what allowed financial institutions to say we'll make a capital investment in your \$100 million facility because we know the state is standing behind its commitment through a contractual structure. We've seen in other states where they've reneged on that and it sends all the wrong signal. Financial institutions say, I'm not investing in Minnesota anymore, I'm going to invest in Nebraska because the sanctity of the contract has been violated and we've got no security under those conditions. [LB922]

SENATOR CORNETT: And you're further saying that in lieu of those contracts that grant programs or limited terms or wording as the industry matures and becomes economically viable that these incentives go away wouldn't work either? [LB922]

TODD SNELLER: Grant programs can work. It becomes a gift... [LB922]

SENATOR CORNETT: Correct. [LB922]

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TODD SNELLER: ...rather than a performance-based incentive and there's more risk with that. But absolutely. The grant programs can work and that's what the federal government is relying on as a combination of loan guarantees and grants today. [LB922]

SENATOR CORNETT: All right. [LB922]

SENATOR JANSSEN: Ron. [LB922]

SENATOR RAIKES: One question comes to mind. One thing we considered in those programs was basically to guarantee a potential builder that you would receive a certain price per gallon regardless of...one way or another, either through the market. In other words, the state would guarantee at least so much per gallon. Why is that not an appropriate way to proceed? [LB922]

TODD SNELLER: With the cellulose programs, that's one of the mechanisms that's being considered. It's called a reverse auction. But it's basically approached similar to what you've advocated in the past. [LB922]

SENATOR RAIKES: Well, that was rejected before and it would have saved the state a lot of money and we'd have gotten just as much ethanol produced had we used something like that because basically what that says if we run into a bonanza like we did in ethanol where plants were making a lot of money making ethanol, we were adding onto that with hard-earned state tax dollars when there was no real need for the survival of those plants to get that money. If we'd have guaranteed that you were going to get, depending upon market conditions, enough to make your plant operate profitably, that would have been a much better way to go in my opinion. And it does not lock you into a contract where you have to pay money when it's not needed, which is what we did in LB536. [LB922]

TODD SNELLER: I will only make the observation that the financial community oftentimes has dictated the parameters of how these incentive programs get shaped. It may be the best public policy. But if we're going to have a viable commercial program, sometimes we've got to shape those incentives in such a way that they're acceptable to the financial structure. And frankly, that's what we saw is that many times the conditions of the banks driving public policy. They help shape that and you make a valid point. And frankly, what the federal government is doing right now is proposing reverse auctions so that a company can come in and say, if you guarantee that you'll give me 50 cents a gallon, I'll take that deal, and I can get financing with that. And that would be similar to what you propose. So that's what's evolving now is a better way to do that. We've not seen any commercial financing on that basis. But that is an approach that is being contemplated and being proposed by Department of Energy today. [LB922]

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SENATOR JANSSEN: Any other questions? Seeing none, thank you, Todd. [LB922]

TODD SNELLER: Thank you. [LB922]

SENATOR JANSSEN: Any other proponents? [LB922]

DUANE GANGWISH: Good afternoon, Senator Janssen, members of the committee. My name is Duane Gangwish, that's G-a-n-g-w-i-s-h. I am the vice president of environmental affairs for the Nebraska Cattlemen and appear before you on their behalf. For your reference, I serve on the state's steering committee for the Nebraska's 25 X 25 coalition. The efforts therefore are to try and achieve nationally our energy inputs, 25 percent of our energy inputs from our agricultural lands. This year, the national summit for that endeavor is in Omaha March 11 through the 13th. So we are bringing it to our backyard, this issue of renewable fuels and biofuels. Nebraska Cattlemen is very supportive of the concept of cellulosic ethanol and very supportive of initiatives of research to bring this technology to our backyard. And especially if this research and development can be done here in such a way that it trickles down to all citizens of Nebraska with some benefit. I do raise some concerns regarding the thought that Nebraska will somehow become a rich resource for cellulosic ethanol. And I only bring these to you for your consideration from the standpoint that our producers, our grasslands are fully utilized today. There is no resource for cellulose from those grasslands. They are fully employed. Corn residues, corn stalks, I believe today that our producers would say that they are fully employed and being utilized today. Either for soil fertility, we've spent decades changing our tillage practices from the '40s and '50s and '60s where we had recreational tillage to where today we've rebuilt our organic matters using no till or minimum till management practices, which has benefited from the reduction of erosion. We've also implemented programs such as CRP to again to improve water quality statewide and nationally. The other part of what the corn stalks are going on, I am a partner in a commercial feed yard and we're paying \$80 a ton for cornstalks to grind to put in feed. They are not free and they're not just laying out there. What cornstalks are not bailed up and ground into feed are either, as I said before, left to build soil fertility or they're being grazed. Cornstalks, there's 1.9 million mother cows in this state. And there's a tremendous number of cows that come down out of the Sandhills into the central platte valley and down to cornstalks. So those resources are being fully used. So again, I caution you, don't think that we have this somehow magical amount of cellulose in this state. Possibly other than some trees in the Republican River Valley that Senator Carlson would like to get rid of. Senator Raikes, you addressed the corn co-products and corn milling from sweeteners and alcohol. Those are being fully used today and they're one of the very, very valuable methods that we have for adding value to Nebraska efforts in our cattle feeding industry. We feed about 4.5 million head of cattle in this state. If we were to utilize 100 percent of the current production of corn co-products in this state alone, we would need approximately another 500,000 to

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600,000 head of feeding capacity. Today, that product is leaving the state and one of our concerns is that somehow youth might consider that that corn co-product become a feedstock to cellulosic ethanol, and therefore take it away from our feeding industry. We've had a very difficult time competing in a market where there is federal mandates driving up the use of grain feedstocks, and then you take away our corn cow product as a feed alternative. Senator Cornett, you addressed the issue of switchgrass, specifically to water. It's hard to believe that you could grow any plant material without water. Corn grows from May to late August, early September, with the bulk of its corn usage in maybe the latter two-thirds of that time frame. You put in a permanent vegetation and it will use water any time that it's available when it's not dormant. So from that standpoint, I'm not a biologist, I'm not a plant specialist, but I think we would have water consumption that might be...it's not going to be water-free. I might suggest that those areas where cellulosic ethanol might be the most advantageous in our nation is in those coastal plains where we have timber growth, we have grass growth, and where we have excess water. So with that, I'd be happy to answer any questions that the committee might have. [LB922]

SENATOR JANSSEN: Abbie. [LB922]

SENATOR CORNETT: No. I was just...when I address those questions earlier, it's we keep hearing switchgrass is less water intensive than corn. And when I said I'd ask questions after Senator Dubas, do we know how much water switchgrass uses versus how much corn uses per acre and what the by-product in the way of ethanol would be from either cellulose or from the distillers grain from corn. [LB922]

DUANE GANGWISH: In regards to the water use, I believe that Dr. Ken Vogel here at the University of Nebraska is an agronomist, has devoted a tremendous amount of research to this. And I believe that he would have those exact numbers. If you try and develop tons of plant material from an acre... [LB922]

SENATOR CORNETT: You're going to need water, obviously. [LB922]

DUANE GANGWISH: ...you're going to need water. And whether those tons would come from one plant species or another plant species, I'm sure there's going to be some unique differences between their water needs. I'm not the one to answer that question. But it would be difficult to believe that their water needs to produce the same amount of energy, if you will, in the end. They may be different, but I'd just raise that question. [LB922]

SENATOR CORNETT: I was going to say the question really comes down to if you grow an acre of corn and you use so much water to grow it, but you can use corn to produce ethanol. You can feed the stalks and you have your feed by-product. Are you using your water in a more conservative fashion than using less water to grow

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switchgrass, but having no other product from it? [LB922]

DUANE GANGWISH: I personally would agree with you that we have multiple end uses when the beginning is our traditional crops. When we go...my professional training is in nutrition, when you take the...digest the energy out of cellulose, you have lignons left. And they have no nutritive value whatsoever. [LB922]

SENATOR CORNETT: Thank you. [LB922]

SENATOR JANSSEN: Any other question? Chris. [LB922]

SENATOR LANGEMEIER: You're on the proponent stage of this bill. [LB922]

DUANE GANGWISH: I am. I had to choose one or the other. [LB922]

SENATOR LANGEMEIER: So I want to dissect your testimony a little bit to try and get what's proponent, what's opponent here. My understanding in your testimony is is the high corn prices are negatively affecting the livestock industry. Would that be a true statement? [LB922]

DUANE GANGWISH: In a narrow evaluation, yes, sir. [LB922]

SENATOR LANGEMEIER: Extremely narrow. There, that's me. However, the by-product that comes out the back end of an ethanol plant, it's extremely valuable, at least the beef industry. [LB922]

DUANE GANGWISH: Yes. [LB922]

SENATOR LANGEMEIER: So in that regard, you're in support of this bill to look at some other methods to affect that corn market. [LB922]

DUANE GANGWISH: No. Our support of the bill is fundamentally independent of grain alcohol and its co-products and end uses of its co-products or the feedstocks there. Our support of cellulosic ethanol is that we as Nebraska Cattlemen believe it is good public policy to pursue, especially an environment where the federal government has said you shall do it. So if there are benefits to conducting research and having incentive programs here in Nebraska that would benefit Nebraska ultimately, then we're very supportive of that. But in our support relative to grain and its alcohol production, there's not really a connection. We merely have a concern that in grain production, we have grain, we have co-products, and we have corn stalks. And we use all three of those. Don't look to those products as the source of feedstock for the cellulosic ethanol. [LB922]

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SENATOR LANGEMEIER: Okay. Thank you. [LB922]

SENATOR JANSSEN: Ron. [LB922]

SENATOR RAIKES: So you would be in favor of us providing incentives for cellulosic ethanol plants in the coastal plains. (Laugh) [LB922]

DUANE GANGWISH: No. I wouldn't. I believe that we would be very supportive of conducting those research activities, having those pilot products here. We can do that kind of research here. [LB922]

SENATOR RAIKES: But really isn't it true that we are coming up here with yet another way to use more of our feed and food base for fuel production? I mean, how can you come out any other way? You said it's being fully utilized and I agree with you. So if we're going to take it out of its current use, which is food and feed production, we're going to put it into fuel use. And there's no empty out there to grab. It's all being used. [LB922]

DUANE GANGWISH: That's exactly my point here in Nebraska. There are sources of cellulose where it's naturally growing today that we can make use of. And it may be good public policy here in Nebraska to at least engage in the research and the development and the investigation. And in the end, those things benefit Nebraska because that research is being done here. It's not that the feedstocks will come from here. [LB922]

SENATOR RAIKES: Okay. Thank you. [LB922]

SENATOR JANSSEN: Abbie. [LB922]

SENATOR CORNETT: So you're just here to support this in theory, but you wouldn't actually want to see us incentivize cellulose production because if we do, then you're going to see a reduction in the amount of feed grains that are available. And you feel that we're already fully appropriated in regards to what we grow in the way of cellulose. It's all already being used. So you're supporting nothing really. [LB922]

DUANE GANGWISH: Well, no. This is the hot seat today. We're very... [LB922]

SENATOR CORNETT: I mean, there's nothing to use, so it's okay to support it. [LB922]

DUANE GANGWISH: There is a win-win situation here, Senator, and I believe that in being supportive, we as Nebraska Cattlemen being supportive of the idea of conducting research, being involved in it, basic research... [LB922]

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SENATOR CORNETT: This isn't research. This is about incentivizing production. [LB922]

DUANE GANGWISH: This is incentivizing the research and ultimately pilot plants that ultimately go. [LB922]

SENATOR CORNETT: Correct. But the ultimate goal is the pilot plants. But what would we use at those pilot plants? [LB922]

DUANE GANGWISH: To answer your question directly, we are in supportive of the bill because it incentivizes research and pilot plants and ultimately commercial production of cellulosic ethanol and we are in support of that. Our current concerns are merely that the ultimate commercialization of that, Nebraska may not be the best spot. [LB922]

SENATOR CORNETT: We have nothing to put into that. Okay. Thank you. [LB922]

SENATOR JANSSEN: Seeing no other questions, thank you. [LB922]

DUANE GANGWISH: Thank you. [LB922]

SENATOR JANSSEN: Any other proponents? Any other proponents? Any opponents? Any opponents? Got one, two. [LB922]

BILL PETERS: Mr. Chairman, members of the committee, my name is Bill Peters, P-e-t-e-r-s. I am a registered lobbyist and representing today BNSF Railway. In addition, my comments reflect the position of the Union Pacific Railroad. We are opposed to Sections 18 and 19 of LB922, the doubling of the Train Mile Tax. We believe that Sections 18 and 19 impose an unfair and discriminatory tax on the railroads and their customers, and probably violate federal law. Thank you and I'd be happy to answer any questions. [LB922]

SENATOR JANSSEN: Thank you, Bill. I don't see any questions. You did your job. [LB922]

BILL PETERS: Successfully? (Laugh) [LB922]

SENATOR JANSSEN: In the eyes of the beholder. Mr. Brady. [LB922]

JUSTIN BRADY: Senator Janssen and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist of Tyson in opposition to Section 15 of LB922, which was the section that places an excise tax on the natural gas. Tyson is a large user of natural gas and would be a significant tax increase to them. For those reasons, they oppose that section. With that, I'd try to

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answer any questions. [LB922]

SENATOR JANSSEN: Any questions? You got off easy. Thank you. Next opponent? [LB922]

DOUG CLARK: Good afternoon, Senator Janssen and members of the committee. My name is Doug Clark, C-l-a-r-k, vice president of government affairs of marketing for the Metropolitan Utilities District. We also oppose the 1 cent tax on the natural gas systems. I noticed in the summary of the bill, it made the statement that gas companies have profited from the development of ethanol. It's important to know that maybe some gas companies have, but the Metropolitan Utilities District does not provide service to an ethanol plant. And the highly likelihood of us ever providing service to an ethanol plant is most likely zero. Therefore, we are not profiting from the ethanol production in this state. We are also in a very interesting situation with the cost of natural gas currently being substantially higher than we would like to see it. We are losing customers to our friends in the electrical industry who are very efficient at delivering electrical services. And so industrial customers in this state are a very energy savvy group. They can switch their source of energy at almost any given time. And by adding 1 penny tax on a decatherm of natural gas, I will see the industrial customers on my system in the metro Omaha area probably migrate to the electric industry. And as we look into the future and whether global warming is real or perceived, you would be shifting an energy source that burns cleaner than any other energy source currently available, natural gas, being lost to another industry that creates more CO2 than we do in the production process. So if the environment is figuring in here at all, forcing companies to choose another energy source is also going to add to the greenhouse gas production here in this country, let alone in Nebraska. So we have a couple of issues here. I will lose industrial customers, and the last large industrial customer I negotiated with was willing to leave the Metropolitan Utilities District natural gas system over .5 cent. The negotiations on their bill was over .5 cent a decatherm. So 1 penny does matter. And with that, I'd answer any questions. [LB922]

SENATOR JANSSEN: Any questions? Don't see any, Doug. Thank you. [LB922]

DOUG CLARK: Thank you very much. [LB922]

SENATOR JANSSEN: Next opponent? [LB922]

JILL BECKER: Thank you, Chairman Janssen, and members of the Revenue Committee. My name is Jill Becker, B-e-c-k-e-r, and I'm a registered lobbyist appearing today on behalf of Aquila. And we, too, echo the statements made by the previous opponents to this legislation. We oppose the provision in the bill that would place a tax on our industrial users of natural gas, and feel that it's an unfair tax that would ultimately be paid by those industrial users. I'd be happy to answer any questions. [LB922]

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SENATOR JANSSEN: Any questions? [LB922]

JILL BECKER: Thank you. [LB922]

SENATOR JANSSEN: Don't see any, thank you. Any other opponents? [LB922]

DARWIN PIERSON: Senator Janssen and members of the committee, my name is Darwin Pierson, P-i-e-r-s-o-n. I am a lobbyist for Nebraska Independent Oil and Gas Association. I know that not many of you are familiar with the oil business in Nebraska because we don't have much in eastern Nebraska. But Nebraska needs more production and by putting additional taxes on what we have and what they might get if they continue to bring in new production does not encourage anybody. Raising the tax 2 percent on nonstripper oil does not attract people to come in and try to find a large amount of oil. When a group of wells that are now stripper, which means 10 barrels a day or less, are put under a water flood program, then that group of wells, which were strippers, becomes up above the 10 barrel a day mark. They then go into the higher tax bracket. And if we add another 2 percent to the 3 percent that's already taken out, we're going quite a bit higher on the taxes and we're not encouraging anybody to come in and try to discover more oil in Nebraska, which we very well need. And to put \$5 or \$10 million into a tax fund to go out and experiment to see if we can grow switchgrass in competition with corn does not appear to us to be a very good deal. Any questions? Thank you. [LB922]

SENATOR PREISTER: Thank you. Senator Janssen had to step out for a minute, so he asked me, Don Preister, to chair the rest of the hearing. [LB922]

DARWIN PIERSON: Okay. [LB922]

SENATOR PREISTER: Are there any questions from committee members that are here? Seeing none, we appreciate your testifying today. [LB922]

DARWIN PIERSON: Thank you. [LB922]

SENATOR PREISTER: You're welcome. Are there any other opponents who wish to testify? If there's anyone else, please come forward. [LB922]

MARY CAMPBELL: Senator Preister, members of the Revenue Committee, my name is Mary Campbell, C-a-m-p-b-e-l-l, representing the Industrial Energy Users of Nebraska. At the onset, I want to back off though and say how much we do applaud Senator Dubas for this bill and other bills that she has introduced this session in an attempt to find elements to build a sustainable energy policy in this state. And we certainly support that. Our opposition is, as has been expressed by other opponents, to the funding

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mechanism in the bill in that our name really says it all. We use vast amounts of energy. We need it at the most competitively priced possibility and we're looking for alternatives and other sources, other means to keep these plants in operation. And so it's a mixed message here and I'd take questions. [LB922]

SENATOR PREISTER: We love what she does, we just don't want to pay for it. Okay. Thank you. Are there questions from the committee members? Seeing none, we thank you for appearing today. [LB922]

MARY CAMPBELL: Thank you. [LB922]

SENATOR PREISTER: Thank you for bringing the rose and brightening the room up. Any other opponents? No other opponents. Anyone neutral? Seeing no one neutral, Senator Dubas, would you like to close? [LB922]

SENATOR DUBAS: Thank you, Senator Preister and members of the committee. I do appreciate your questions this afternoon. I think we may find ourselves today where we were 20-plus years ago when we were starting to talk about corn-based ethanol and its been an evolving industry. I think, you know, there are a lot of different opinions about what ethanol has done for the state. But I think we could find some agreement that ethanol has done some very positive things for the state's economy. I introduced this bill today to get this discussion going about renewable energies in another fashion outside of corn-based production. I think it's an important discussion that we have. I think with the mandates that have been outlined for us in the federal energy policy, it's something that we need to be looking at as a state, and how do we position ourselves to be a part of that policy development. This is an issue that I feel very, very strongly about. It's something that I will probably be spending at least the next couple of years of my time here working on, working with people that are interested in these issues. And I hope that we can craft state policy that will support and benefit all of the interested parties. So I appreciate your attention this afternoon. [LB922]

SENATOR PREISTER: Thank you, Senator Dubas. Are there any questions? Thank you, Senator Dubas. And I do appreciate your interest in renewable energy and glad to see somebody will be here to carry on after this year. [LB922]

SENATOR DUBAS: Thank you. [LB922]

SENATOR PREISTER: (Exhibit 4) Thank you. I also have a testifier statement from Loran Schmit, who apparently was busy, but he is sending his written testimony around to members of the committee. And he is a proponent. So he apparently had another committee and couldn't get here in time for the proponents. With that, that concludes the hearing on LB922. And I believe the next one is Senator Cornett's LB931. Senator Cornett, whenever you're ready. [LB922]

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SENATOR CORNETT: Thank you, Senator Preister and members of the Revenue Committee. For the people that were here last year, I introduced this bill last year. Over the interim, we killed the bill last year and over the interim, the groups involved were going to sit down and work out the details between that. I'm just going to give you an idea of what the bill is about, then explain where that is at. LB931 is being offered on behalf of members of the Commercial Airlines Industry to make the taxation of airline transportation property consistent with current Nebraska law on the taxation of railroad transportation property. This bill would amend Section 77-1248 regarding the property taxation of airline flight equipment owned by common carriers. The language that is used in the bill exactly mirrors the language currently in existence in Section 77-693 applicable to the railroad industry. There are currently a number of tax protests pending before the Property Tax Administrator filed by air carriers asserting that there is a lack of equalization with the rail carriers. This bill would provide a clear authority at the Property Tax Administrator to deal with those protests and to avoid uncertainties of litigation. This bill only affects personal property taxes, not real property taxes. I am going to waive closing in the beginning and allow the testifiers behind me to explain where they are in the process and what their fears are in regards to litigation of this matter. And I would request the committee ask any technical information for the testifiers following me. [LB931]

SENATOR PREISTER: Thank you, Senator Cornett. Any nontechnical questions for Senator Cornett? Seeing none, thank you. We'll then ask the proponents who can answer all the technical questions to please come forward. Welcome. [LB931]

NORMAN WRIGHT: Welcome. I am Norman Wright. I represent N.H. Wright and Associates law firm, W-r-i-g-h-t, is my name, Senator Preister, members of the committee. I was here last year when this was LB355. The language of the bill is exactly the same. Let me put this bill in perspective for you. During the 1980s primarily and into early 1990s, there was a lot of unconstitutional legal actions taken regarding the personal property taxation that came out of the railroad litigation under the 4-R Act, and then Northern Natural Gas's case. And there was a C change made in the way personal property taxation worked. Instead of being based on value, the Nebraska constitution was amended to give the Legislature the opportunity to either do it based upon, in essence, federal income tax depreciation rates or on value. The Legislature chose the depreciated income tax methodology. Subsequent to that, Nebraska adopted a bill that's now codified as 77-693 that allows the Property Tax Administrator to work with the railroad industry who still has the protection of what is known as the 4-R Act at the federal level that prevents any discrimination. And that allows the Property Tax Administrator to do studies, and rectify any continuing discrimination that may still exist in the personal property tax system, and adjust the personal property component of the railroads. This only applies to personal property. Unfortunately, when LB693 was adopted, it was narrowly adopted, and the language of that provision only applies to

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railroads. The airline industry, who are my clients, also have protection under something that's known as TEFRA 49 U.S.C. Section 40116. So the airlines filed property tax protests with the Property Tax Administrator's office to challenge this now disparity of treatment between the airline industry and the rail industry. At that time, Cathy Lang was the Property Tax Administrator, and she and her legal staff concluded that, yes, there probably was federal discrimination. But she felt that she didn't have any clear direction from the Legislature as how to rectify that. So we have been trying to work cooperatively with the Property Tax Administrator and their legal staff, and brought LB355 last year. In order to adopt exactly the same parallel language that applies to railroads, to apply that same language to the airline industry to allow her to make the adjustment--or whoever becomes...we know we have a new Property Tax Administrator--to allow the Property Tax Administrator clear direction as to how to rectify this. The bills as they currently sit has an unusual...because the airline industry pays taxes slightly different methodically than the rail industry does. So there's been resistance primarily out of Douglas County, who is the largest urban center receives a fairly large share of the way airlines pay taxes. Unlike the other forms of property taxes, many years ago for whatever reasons, the airline industry was treated differently in the way it pays taxes. The way it pays taxes is it pays taxes directly to the Property Tax Administrator, and then the Property Tax Administrator has a statutory formula under which those taxes are paid back, as opposed to everybody else who pays property taxes through the county. And so any changes that are made in valuation techniques are spread amongst all of the taxpayers in that county. So in essence, there's a revenue neutral effect anytime you make a tax policy change. Because this bill affects only the airline industry who pays taxes in this unusual way, Douglas County would receive a direct impact from the bill. We would counter with, well, if the Legislature does nothing and forces us to go to court to get this rectified, then they stand the chance of losing all of their tax revenue because clearly there is a discriminatory taxation, which is not permitted under federal law. We've been trying to work cooperatively to give directions as to how we can fix that under the control of the Property Tax Administrator, rather than allowing the courts, at some point, to fashion a remedy. And you're never sure exactly what remedy the courts may fashion. And so if the courts were to fashion a remedy that the tax--since it's illegal--can't be collected at all, then Douglas County would lose all of their money. We've been trying to work with the county to find a way to solve this problem, but it isn't a problem that's easily solved because to make it, revenue would have to come from someplace. And since all other property taxes are paid in a completely different methodology, there hasn't been an easy solution to that problem. But focusing on that problem, I think, ignores the real problem. And that real problem is that the current system is illegal and we need to fix that. And that's what we're asking the Legislature to do is to provide the same tools to the Property Tax Administrator that they have for the rail industry, give them the same tools with regards to the airline industry. So with that, and having been set up by Senator Cornett to answer technical questions, I'll certainly try to do that, Senator. Chairman Janssen, welcome back. Thank you. [LB931]

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SENATOR PREISTER: Thank you, Mr. Wright. Are there questions for Mr. Wright from the committee members? Senator Raikes. [LB931]

SENATOR RAIKES: Well, I suspect you answered this, but I didn't get it. I've got a plane worth \$10 million, we'll say, that's sitting at the airport in Omaha, Eppley. I owe property tax on that plane. Is that what we're talking about? [LB931]

NORMAN WRIGHT: Perhaps. When you say "you," if you're talking about you the person owning an airplane, that's different. We're talking about the commercial airline industry. [LB931]

SENATOR RAIKES: All right. I'm a commercial. [LB931]

NORMAN WRIGHT: If you mean United or Frontier or American, yes, then you pay property taxes. [LB931]

SENATOR RAIKES: You haven't heard of Raikes International Airways? (Laugh) [LB931]

NORMAN WRIGHT: Sorry, Senator, I didn't. [LB931]

SENATOR RAIKES: Yeah. Well, let's create that entity. So right now that plane is centrally assessed. [LB931]

NORMAN WRIGHT: Correct. [LB931]

SENATOR RAIKES: And so that means that...and the rate is what? [LB931]

NORMAN WRIGHT: The rate is the average statewide levy for all counties in Nebraska. [LB931]

SENATOR RAIKES: Give me a clue. [LB931]

NORMAN WRIGHT: Effective tax rate is about 2.5 percent, let's call it that. [LB931]

SENATOR RAIKES: Okay. So personal property tax would be 2.5 percent? [LB931]

GEORGE KILPATRICK: I'd say it's 1.96, but... [LB931]

SENATOR RAIKES: Two. Okay, 2. So if my plane is worth \$10 million, so that would be \$200,000. Is that right? [LB931]

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NORMAN WRIGHT: I believe that's pretty close, yes. [LB931]

SENATOR RAIKES: Okay. So that's the way it's assessed now. And the \$200,000 goes where? [LB931]

NORMAN WRIGHT: The \$200,000 gets sprinkled amongst all--help me--91 counties. [LB931]

SENATOR RAIKES: Three. [LB931]

NORMAN WRIGHT: ...or 93 counties. Excuse me. But the formulaic approach that's used would weight counties with larger populations. So Douglas County would get the lion's share. Lancaster is probably second. [LB931]

SENATOR RAIKES: Okay. So it's basically distributed to counties in proportion to population. [LB931]

NORMAN WRIGHT: I think there's another factor besides population, but yes basically. [LB931]

SENATOR RAIKES: All right. Close enough. Yeah. And so what you're proposing would change that how? [LB931]

NORMAN WRIGHT: What we are proposing would change in essence the 2 percent factor, if you will, not where it goes. But it would affect the value conclusion on the plane itself. [LB931]

SENATOR RAIKES: Okay. So we got to go back to the \$10 million. [LB931]

NORMAN WRIGHT: Right. [LB931]

SENATOR RAIKES: And right now, the \$10 million is a depreciated value. [LB931]

NORMAN WRIGHT: Correct. [LB931]

SENATOR RAIKES: Net book value. Okay. So instead of that, we're going to use some ratio of total actual value to what? To all... [LB931]

NORMAN WRIGHT: All other commercial and industrial property. A calculation that's already being made at the Property Tax Administrator's office. [LB931]

SENATOR RAIKES: What's that calculation? (Inaudible) the 2 percent versus 2 percent. I assume it's less than 2 percent or you wouldn't be here. [LB931]

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NORMAN WRIGHT: Yes, that's true. [LB931]

SENATOR RAIKES: Okay. How much less than 2 percent? [LB931]

NORMAN WRIGHT: That's the hard part to determine. The number that's appearing in the fiscal statement assumes...because I've talked to Denny Donner, he's the one that works for the Property Tax Administrator's office who made that calculation, he's made the assumption that if the airlines got the same percentage adjustment that the rail industry gets, that's the number that would be generated. Unfortunately, it's a much more complex calculation in that primarily affected by the age of the asset. The newer the asset is, you will probably get a larger percentage of relief. And typically the airline industry in Nebraska has an older fleet than flies elsewhere because new planes tend to fly to Los Angeles or New York or Atlanta. The older planes are used to service smaller markets. And so the calculation isn't as simple as just using a ratio. But nonetheless, it certainly would be a reduction. What's of primary... [LB931]

SENATOR RAIKES: It is heartening, by the way, that we get the older planes. But go ahead. [LB931]

NORMAN WRIGHT: Perhaps. [LB931]

SENATOR RAIKES: Yeah. That's true. Raikes is different than that. [LB931]

NORMAN WRIGHT: Yeah. The newer airlines would certainly profit probably more than the others. But what's really of concern more to the industry is the allowance of disparity at any particular state because then these things tend to multiply. And so that's the focus. Nebraska's property tax system is actually...personal property tax system is actually fairly benign for the airline industry. There are many states that have worse systems. But they don't have worse systems vis-a-vis. They are competitors in the transportation industry. And that's really the focus more than the actual dollars. [LB931]

SENATOR RAIKES: So you would just as happy if we raised the taxes on railroads. [LB931]

NORMAN WRIGHT: Bill, can I answer that question? We'd like to see the discrimination eliminated one way or the other. That's a fair... [LB931]

SENATOR RAIKES: Okay. Thank you. [LB931]

SENATOR PREISTER: Thank you, Senator Raikes. Any other questions for Mr. Wright? Seeing none, we thank you for your testimony. [LB931]

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NORMAN WRIGHT: Thank you. [LB931]

SENATOR PREISTER: And I'll ask if there are any other proponents who wish to testify? And then, as any may come up, I'll turn the proceedings back to Senator Janssen. It looks like no proponents, so any opponents? Senator Janssen. [LB931]

JOE KOHOUT: Senator Janssen, members of the Revenue Committee, Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing today on behalf of the Douglas County Board of Commissioners. As the previous testifier noted, we obviously appreciate conversation during the process, and I'm not going to be here to answer highly technical questions about impact. I spoke to Steve Walker (phonetic), who's our chief financial officer who's crunched the numbers on this bill based on some assumptions and based on the assumption of a reduction of about \$1 million, which Senator Cornett's office provided to Steve and to the commissioners that if there was a reduction. Douglas County last year generated \$738,000 under this program. We estimate that we receive about 27 percent of the total amount generated throughout the state. So a 27 percent reduction on \$1 million takes us, you know, a \$270,000 hit to that fund. So to that end, obviously, we oppose any reduction in that and would stand for any questions. And if they're highly technical, I'll run them up the flagpole. But... [LB931]

SENATOR JANSSEN: Any questions? Don't see any, Joe. Thank you. [LB931]

JOE KOHOUT: Thank you. [LB931]

SENATOR JANSSEN: Any other opponents? Any opponents? Anyone in a neutral position? Seeing none, that ends the hearing on LB931 and the hearings for the day. [LB931]

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Disposition of Bills:

LB922 - Indefinitely postponed.
LB931 - Indefinitely postponed.
LB1071 - Indefinitely postponed.

Chairperson

Committee Clerk