

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
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aware of it. But in this bill we began participating in the compensation package for private individuals working for corporations in the state of Nebraska. What was the complaint? The complaint essentially was that they weren't netting enough money out of their employment, so another way to net additional money out of their employment was to forgive all of the capital gains tax that they might pay if they sold some stock. We are participating in compensation for a limited number of individuals in the state of Nebraska. We are paying them because we are giving them a 100 percent capital gains exclusion on stock that they acquire in a company that they work for, but only the company they work for. Doesn't apply to anything else. Now, is it only the person? Is it only the person who worked for the company that can take the benefit of this 100 percent capital gains exclusion? No. Their spouse could take advantage of the election. If I received a hundred shares of "XYZ Company" and gave it to my spouse, she could take advantage of the election at some future time. What if I gave the stock to my children or my grandchildren? Could they take advantage of the exclusion? Are they going to get the benefit from the state of Nebraska that I earned, if you listen to the advocates for the bill? Yes, they can. And the rule that produces that result is one of the oddest I've ever seen in tax law. There used to be a rule of descent called the rule of primogeniture. I don't know how many of you ever were around in medieval England, probably not very many of you, but the rule of primogeniture used to state that if you died owning property that your property went to the eldest male child. Nobody else could inherit, it was only the eldest male child. Well, what does LB 383 got to do with the rule of primogeniture? What does the 100 percent capital gains exclusion that I've been describing to you have with the rule of primogeniture? Well, it doesn't specify that the election can be made only by the eldest male child, but there is the oddest, the oddest rule that says that the eldest child, that is a successor to one...to some stock that's acquired that's eligible can make an election, the eldest child. Now why would you do that? It's a part of an estate planning technique whereby you pass on stock to...you put that in trust and you exclude that from federal estate tax and you exclude that from state of Nebraska inheritance tax on your death. You make a gift before the date of your death. But, of course, you want to pass on the income tax benefit that the