

Transcript Prepared by Clerk of the Legislature Transcribers Office
Revenue Committee February 10, 2023

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

von GILLERN: [RECORDER MALFUNCTION] Committee's public hearing. My name is Senator Brad von Gillern. I'm the Vice Chair of Revenue and serve in Legislative District 4 in west Omaha and Elkhorn. The committee will take up bills in the order that they're posted outside of the hearing room. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. We do ask that you limit or eliminate handouts. If you're unable to attend a public hearing and would like your position stated for the record, you may submit your position and any comments using the Legislature's website by noon the day prior to the hearing. Letters emailed to a senator or staff member will not be a part of the permanent record. If you're unable to attend and testify at a public hearing due to a disability, you may use the Nebraska Legislature's website to submit written testimony in lieu of in-person testimony. To better facilitate today's proceeding, I ask that you follow these procedures. Please turn off all cell phones and other electronic devices. The order of testimony is the introducer, proponents, opponents, neutrals, and the closing remarks. If you will be testifying, please complete the green form and hand it to the committee clerk when you come up to testify. If you have written materials that you would like distributed to the committee, please hand them to the page to distribute. We need 11 copies for all committee members and staff. If you need additional copies, please ask the page to make copies for you now. When you begin to testify, please state and spell your name for the record. Please be concise. It's my request that you limit your testimony to five minutes and we'll use the green light-- or the light, light system with green for four minutes, yellow one minute remains, and red please wrap up your comments. If there are many-- if your remarks were reflected in previous testimony or if you would like your position to be known but do not wish to testify, please sign the white form at the back of the room and it will be included in the official record. Please speak directly into the microphone so our transcribers are able to hear your testimony clearly. I'd like to introduce the committee staff: to my immediate left is Lyle Wheeler, to his left is research analyst Charles Hamilton, and to the far left is committee clerk Tomas Weekly. Committee members with us today will introduce themselves beginning at my far right.

KAUTH: Kathleen Kauth, LD 31, Millard area.

BOSTAR: Eliot Bostar, District 29.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

ALBRECHT: Joni Albrecht, District 17.

DUNGAN: George Dungan, District 26, northeast Lincoln.

von GILLERN: Thank you. Our pages today, if you'd please stand, are Mataya, who's a political science major at UNL, and Kaitlyn who's a history major at UNL. Thank you for being here today. Please remember that senators may come and go during our hearing and they may have bills to introduce-- as they may have bills to introduce in other committees. Refrain from applause or other indication of support or opposition. For our audience, the microphones in the room are not for amplification but for recording purposes only. Lastly, we use electronic devices to distribute information. Therefore, you may see committee members referencing information on their electronic devices. Be assured that your presence here today and your testimony are important to us and are a critical part of our state government. And with that, we will open testimony on LB300. Welcome, Senator Linehan.

LINEHAN: Thank you. Good morning, Vice Chair von Gillern and members of the Revenue Committee. I'm Lou Ann Linehan, L-o-u A-n-n, Linehan, L-i-n-e-h-a-n, and I'm from Legislative District 39 which includes Elkhorn and Waterloo in Douglas County. I'm here today to present LB300. Across the aisle, I believe we can all agree that it's important to all Nebraskans, not, not only to destigmatize mental health and substance use treatment but we have a duty to our neighbors, friends and family to ensure that every Nebraskan, regardless of their circumstance, has access to the same. Nebraska Revised Statute 77-2704.12 currently provides for sales and use tax exemption for certain specified nonprofit organizations. LB300 adds to the list of exempt nonprofit organizations that are certified, contracted by Regional Behavioral Health Authority or the Division of Behavioral Health of the Department of Health and Human Services. It's saying-- it's a saying known across the country, "Nebraska Nice." This is yet another opportunity for our body to show why this saying is so well known. More importantly, this is an opportunity to show affirmation and support to our constituents in the growth and evolution that has been undertaken by all Nebraskans alike to continue to destigmatize mental health and substance use treatment. Most importantly, this reaffirms to those of us in need not only for support of their steps to care and recovery, but to show our support in a meaningful and substantive way. For all these reasons, I request

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

the committee to approve and advance LB300. So I'm just going to take a second here to go away from my prepared remarks because my staff wouldn't have known this, but Carole Boye will follow me and I've known her since 2000, we think that's what it was, she has spent her life, as far as I know, supporting those with mental health and substance abuse problems. She has been amazing and the amount of support she's gotten from the private sector. She rarely comes here asking for help, but this is a situation which she will explain better than I can and I think it's very important we do this. Thank you.

von GILLERN: Very good. Any questions from the committee? Seeing none, thank you. We'll welcome proponent testimony. Good morning.

CAROLE BOYE: Good morning, Senators. My name is Carole Boye, C-a-r-o-l-e B-o-y-e, and I testify to you today as CEO of Community Alliance in support of LB300. Community Alliance is a nonprofit 501(c)(3) community mental health organization that serves over 4,000 men and women every year with serious mental illness in the Region 6 area, which is comprised of Douglas, Sarpy, Dodge, Cass, and Washington Counties. I'm also here today testifying on behalf of the Nebraska Association of Behavioral Health Organizations, who are also supporting LB300. I'd first like to, to thank Senator Linehan. I'd like to claim that we met each other when we were five. It's been that long ago. But I'd like to thank her for listening to the challenges currently being posed by the nonprofit mental health and substance use agencies when it comes to sales and use tax exemption and for her introduction of this remedy. LB300 is, in our view, a welcome effort to clarify what we believe was legislative intent in the past and update the statute consistent with current reality in relation to mental health, growing need and increasing integration of care and services. Let me try to explain. Currently, Nebraska provides a sales and use tax exemption for, quote, mental health and substance use treatment centers licensed under the Health Care Facility Licensure Act. Community Alliance provides a wide range of mental health and substance use services: residential care, which requires a license is one of them. Psychiatric treatment, counseling, rehabilitation, in-home services, homeless outreach, vocational services, assertive community treatment, suicide prevention, and community outreach are other mental health and substance use services that we provide, none of which are subject to licensure and, therefore, none of which are eligible for the sales or use tax

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

exemption as the statute is currently written. Integrating all these services is considered best practice in mental health and gets the best outcomes for those we serve and for the taxpayer. So while we operate five licensed residential facilities and receive sales tax exemption for that portion of our continuum, the remaining services do not qualify. We therefore have to parse our services for purposes of this statute. We obtained a health clinic license when we had a primary healthcare, so we are currently able to also exempt that specific service from sales tax. But even with that addition, that leaves a large portion of our work either ineligible or in a gray area. For example, psychiatrists, therapists, care coordinators work side by side with that primary care physician that's on our staff as part of the integrated care team. Does this qualify those services as part of our health clinic and therefore sales tax exemption? What about centralized purchase of office supplies and shared office equipment? We share that copier across all, all programs. What is an acceptable allocation and accounting process to obtain statutorily authorized and intended exemption? Bottom line, even though we are most likely eligible for at least some sales tax exemption, in many of these cases we often choose not to claim it due to impracticality and excessive administrative accounting and compliance burden. Speaking on behalf of the Nebraska Association of Behavioral Health Organizations, known as NABHO, as well as for Community Alliance, we are supportive and appreciative of the-- of this remedy proposed, including its focus on nonprofit mental health service providers who have contracts with the regional or state behavioral health authorities, while not being overly broad in terms of impact on sales tax revenue. In polling our membership at NABHO, we estimate that approximately half of the 52 member organizations are in a similar situation as Community Alliance. Again, our thanks to Senator Linehan and to all of you here on the Revenue Committee for your thoughtful consideration and support of this bill. LB300 would provide a meaningful change in our operations and approximately \$20,000 in sales tax savings that we could better reinvest in, in mental health care. I'll be happy to provide any additional information you may want or answer any questions.

von GILLERN: Thank you for your testimony. Questions from the committee? I just have one. Who's your primary constituency, the people that you care for? Is there a certain demographic that's more prominent than others?

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

CAROLE BOYE: Ninety-six percent of the people we serve have incomes below the federal poverty level at the time of admission. That's probably the most startling statistic. They're adult men and women, primarily with long-term mental health disorders such as schizophrenia and bipolar, bipolar disorder. One in three are people of color. As I said, we, we cover a five-county area.

von GILLERN: OK. All right. Thank you.

CAROLE BOYE: Fifty percent or more are Medicaid-eligible folks.

von GILLERN: Very good. Any other questions? Thank you, Ms. Boye, for being here.

CAROLE BOYE: Thank you.

von GILLERN: Other proponent testimony?

JOE KOHOUT: Oh, yeah, sorry about that.

von GILLERN: First time?

JOE KOHOUT: Don't I, don't I just take that with me? [LAUGHTER]
Sorry.

von GILLERN: First time?

JOE KOHOUT: Yeah, my first time doing this. [LAUGHTER] Vice Chairman von Gillern, members of the Revenue Committee, my name is Joe Kohout, J-o-e K-o-h-o-u-t. I appear before you today as lobbyist for the Nebraska Association of Regional Administrators, which is a coalition of the six behavioral health regional administrators from across the state of Nebraska who operate those within their individual areas respond to a board of commissioners or a board of directors that are comprised in each of those areas. Their governing boards are comprised of local county officials from each of those, those regions, and we appear in support of, of LB300 today. We are those folks who contract directly with those providers on the ground. So we do hear these stories on a regular basis of what this impact is, if in fact they're not obtaining that, that sales tax exemption or they're not getting that benefit and so the, the administrators asked me to appear to register their support today before the committee. Happy to try to answer any questions you might have.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Revenue Committee February 10, 2023

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

VON GILLERN: Any questions from the committee? Seeing none, thank you--

JOE KOHOUT: Thank you.

VON GILLERN: --for being here, Mr. Kohout. Any other proponents? Seeing none, are there any opponents that would like to speak today? Any neutral testimony? And Mr. Clerk, remind me, did we have any letters?

TOMAS WEEKLY: Lyle indicated there were no letters.

LYLE WHEELER: No letters.

VON GILLERN: No letters. Thank you. Senator Linehan, would you like to close?

LINEHAN: Thank you all for being here. And I really want to thank Carole and Joe for coming and testifying and I hope we can get this out quickly and to the floor.

VON GILLERN: Very good. Thank you. Any questions for Senator Linehan? Seeing none, thank you.

LINEHAN: Thank you very much.

VON GILLERN: This will close our hearing on LB300 and we'll open on LB384.

LINEHAN: Good morning, Senator Bostar.

BOSTAR: Good morning, Chair Linehan and fellow members of the Revenue Committee. For the record, my name is Eliot Bostar. That's E-l-i-o-t B-o-s-t-a-r, and I represent Legislative District 29. I appear today to present LB384. Nebraska airports are critical infrastructure for our state. By supporting manufacturing, food production, agricultural applications, and providing interstate travel for business and commerce, our airports serve a vital role for Nebraska's economic development. A recent study by the Nebraska Department of Transportation determined that Nebraska airports provide \$8.6 billion in overall economic impact to the state and over 90,000 jobs. Not only our-- are our airports a major income generator for our state, they also support lifesaving services like medical transport,

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

firefighting, law enforcement, and search and rescue. The importance of airports to our state cannot be overstated. But too many of our airports lack the resources necessary for general maintenance and repair. LB384 establishes a sustainable financial support mechanism for the maintenance and upkeep of Nebraska's air transportation network. LB384 directs the sales tax paid on the sale and lease of aircraft to a Transportation Aeronautics Capital Improvement Fund. This fund would be administered by the Department of Transportation's Aeronautics Division and will solely be used for the maintenance and repair of Nebraska airports. LB382 is not a new concept-- sorry, LB384 is not a new concept. The bill is specifically modeled after LB814, which was passed by the Legislature in 2014. LB814 directed sales taxes paid on ATVs, UTVs, motorboats, and personal watercraft to the Game and Parks Commission to be used for capital maintenance, repair, and improvements at Game and Parks facilities. That funding mechanism for Game and Parks was reconsidered and extended with the passage of Chair Linehan's LB350 as part of LB595 in 2021. LB384 is also very similar to the approach we currently take for the funding of the Highway Trust Fund, whereby the sales and lease of motor vehicles provides financial support for roads infrastructure. There will be testifiers who follow me that can shed light on the history of the state's funding of our airports, how the capital improvements and maintenance needs of our airports are currently paid for, and the needs of the system now and in the future. LB384 is a small step in the right direction toward providing our airports with a means of sustainable funding for the type of projects that are necessary to secure our airport network's future. There is precedent for providing infrastructure funding through a mechanism like this, and it makes sense to apply this tested and effective funding method to our state's airports. I ask the committee to advance LB384 to General File and be happy to answer any questions you might have.

LINEHAN: Thank you, Mr. Bostar. Are there questions from the committee? Senator Kauth.

KAUTH: Thank you, Chair Linehan. Where does the money go now that's collected from those taxes? Is it just general funds?

BOSTAR: It's just treated as general sales taxes.

KAUTH: OK.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

LINEHAN: Thank you, Senator Kauth. Are there other questions from the committee? Seeing none, are there proponents for LB384? Good morning.

SCOTT TARRY: Good morning, Chairwoman Linehan and members of the Revenue Committee. My name is Scott Tarry, S-c-o-t-t T-a-r-r-y. I'm the chair of the Nebraska Aeronautics Commission. As you may know, the Aeronautics Commission is appointed by the Governor to provide oversight of the Division of Aeronautics, which is now within the Nebraska Department of Transportation. It's also the role of the Commission to advise state government about the opportunities and challenges facing Nebraska's aviation community, which includes 79 public use airports across the state. As to my aviation experience and expertise, I've spent over 30 years working in the field. I recently stepped down as director of the Aviation Institute at the University of Nebraska at Omaha after serving in that role for 15 years. I'm currently associate dean of the College of Public Affairs and Community Service at UNO, but I'm testifying on my-- in my role as chair of the Aeronautics Commission and my testimony is not intended to reflect the position of the university. I want to thank Senator Bostar for introducing LB384 and thank Senator Linehan and the other members of the Revenue Committee for considering this important piece of legislation. I am supportive of LB384. I know we have some representatives here today from airports from around the state so I will leave it to them to speak to their specific challenges and opportunities that their airports face. But I want to touch on two issues that I think are really important from a system perspective or statewide perspective. While many things can shape good public funding decisions, two principles I think are important when reconsidering the allocation of tax revenues as proposed by LB384. By moving sales tax dollars collected from the sale of aircraft out of the General Fund and reallocating them to the Division of Aeronautics for the specific purpose of supporting aviation infrastructure, LB384 will help accomplish two important objectives by providing between \$1.2 and \$1.4 million per year for airport projects across the state. This will allow Nebraska general aviation and smaller commercial service airports to more effectively leverage federal funds that are available to airport capital improvement projects. Unfortunately, because of the cost share or match requirement imposed by the FAA on federal airport funds, communities must come up with up to 10 percent of the requested amount for their projects. Without support, we risk federal money

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

being left on the table because smaller communities and their airports cannot always meet the matching requirement. And because of this, some do not even begin the process that's quite involved required by the FAA for capital improvement grant requests. If these dollars are not coming to Nebraska, they're going elsewhere. We certainly like our friends in Iowa and South Dakota and Kansas, but I'm sure you'll agree we'd rather all see the federal dollars coming to support Nebraska's airports. If there's any, any concern that making matching funds more readily available will lead to the unnecessary expenditure of state and federal funds on projects of limited value, be assured that airport projects receiving federal capital improvement funds or state dollars are fully vetted by the planning and engineering staff of the FAA Central Region and the Nebraska Division of Aeronautics. As an additional layer of accountability, the Aeronautics Commission reviews plans and recommendations for all projects before approving them for funding. In fact, we're meeting this afternoon in Hastings to do this very job for a number of important airport projects across the state. A second, no less important issue when it comes to taxpayer dollars and the importance of protecting previous investments, airports are critical infrastructure. While they're built to last a very long time, they're not immune to the ravages of time or Nebraska summers and winters. It's critical, especially when it comes to operational services such as runways, taxiways, ramp areas that pavements are monitored and routinely maintained to mitigate degradation, ensure safe operations, and extend the life of investments that have already been made. LB384 will allow taxes collected from the sales of aircraft to do just that. The Division of Aeronautics will have new resources to help airports across the state monitor and extend the life of this critical transportation infrastructure. I urge you to support LB384 and help Nebraska's airports meet the challenges and opportunities of the coming decades. Thank you.

LINEHAN: Thank you, Mr. Tarry. Are there questions from the committee? Senator Albrecht.

ALBRECHT: Thank you, Chair Linehan. And thank you for being here today. Can you give me an idea of how many projects are needed throughout the state of Nebraska? I mean, do we have a large list?

SCOTT TARRY: Yeah, that's a great question. We do have a system plan that's being completed. It's actually been 20 years in the, the

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

making to have that revised, which is something that I think the division rightly took care of. So there's a number of projects there, not all of those would, would necessarily be in that same category as being sort of short of, of matching funds, but, but some of them will. We have a number of people here today that could speak specifically to the--

ALBRECHT: To some of their [INAUDIBLE].

SCOTT TARRY: --to those cases and examples that you're looking for. One of the problems that the division has, the division has, and the Commission as well has asked this question, there's a sort of a selection bias problem, if you will, that the communities that know they don't have the matching funds or can't get them don't begin the process of requesting of doing the engineering studies and going through that process so we don't have a good mechanism for not knowing accurately the answer to your question. It's something we need to work on. We have anecdotal information that there are a number of airports across the state. The matching funds that have been used previously have declined over the years so there's a, a sense that there is this pent-up demand, but I don't have a, a, a exact number for you.

ALBRECHT: And so, so when you have these funds, how many, how many people decide where those funds should go?

SCOTT TARRY: Well, what happens is that the, the communities work with Division of Aeronautics and the engineering staff, they work with the FAA Central Region to put together a capital improvement program proposal. So it's, it's a, it's a process that's quite involved. They know that when they get their-- sort of their, their estimate of what that project's going to cost, they're going to have to come up with that 10 percent. So it's probably part of an iterative process where the community has to get a good estimate of the cost of the project,--

ALBRECHT: Sure.

SCOTT TARRY: --but they also know what their own resources might be.

ALBRECHT: OK. Thank you.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

LINEHAN: Thank you, Senator Albrecht. Are there other questions?
Senator Kauth.

KAUTH: Thank you. How many airports are there total in Nebraska?

SCOTT TARRY: Seventy-nine public use airports.

KAUTH: Thank you.

SCOTT TARRY: I was-- I had-- just recently had to look that up myself because when I started-- I came to Nebraska in 2000, I think we had 91. So we've, we've, we've lost some and-- but that's the most accurate number I have from the Division so I'll stand by that.

KAUTH: Thank you.

LINEHAN: Thank you, Senator Kauth. Other questions from the committee? I'm going to go back to kind of rephrase Senator Albrecht's question. I think-- so the community does what they need to do, but this isn't-- I mean, it's a lot of money, but sitting in Revenue doesn't seem like that much money, \$1.5 million, it says in the second year, who-- so you've got 79 airports, is it your Commission then that decides which-- who comes first on the list?

SCOTT TARRY: No, we, we, we get basically advised by the Division of Aeronautics. Right? So that there's the FAA process and the Division of Aeronautics, we're, we're a state level sort of, sort of approval process. It's a layer in the process that the federal government, the FAA Central Region has to approve those projects.

LINEHAN: So you're thinking they wouldn't approve more projects than this money would cover?

SCOTT TARRY: Well, they won't get proposals from communities unless the communities know they have the opportunity to match those federal funds. So this hopefully will do two things. One, the money could be used to help communities who have projects that are necessary and match those federal funds, but it'll also provide resources to do the preventative maintenance and the monitoring and so, so forth. And I think Senator Bostar mentioned that--

LINEHAN: OK.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

SCOTT TARRY: --in his, in his remarks as well.

LINEHAN: OK. Thank you very much. Any other questions? Thank you very much for being here.

SCOTT TARRY: Thank you very much.

LINEHAN: Appreciate it. Other proponents? Don't be shy. Good morning.

RODNEY STORM: Good morning, Chairman, committee members. My name's Rodney Storm, R-o-d-n-e-y S-t-o-r-m. I'm the city administrator for the city of Blair and also serve as the airport manager for the Blair Executive Airport that is governed by the city of Blair Airport Authority. Excuse me. LB384 is a bill that will increase funds available to the Department of Transportation Division of Aeronautics to support statewide grants for much needed improvements to Nebraska's airports, improvements that not only will support the whole aviation industry, but the communities they serve in the state of Nebraska. The time is right for the passage of LB384. The legislation is needed, due, and it's the right thing to do. The time is right as LB384 directs the sales tax from aircraft sales and leases and invests those dollars back into Nebraska's airports to support the aviation industry and to help reduce our dependency on property tax dollars for their support, maintenance, and improvement. It is the time, right time because state revenues have never been better situation than now to remove those sales tax dollars from the state General Fund to support the industry that has generated the dollars. Nebraska's airports struggle to find enough local funding to support the endless number of projects that need to be completed to keep our airport safe and marketable. Redirecting-- redirecting the aviation dollars-- sales tax dollars, which are no different than user fees, allows those fees to be used to support the development of Nebraska airport infrastructure for the benefit of the private individuals, business, industries that are using the facilities, while at the same time reducing the burden of general property taxes on the cities, farmers, ranchers, and nonflying businesses. I said 80 so I miscounted, so I apologize, it's 79 general aviation airports that contribute to the millions of dollars in business revenue to the economy of the state. Yet, according to information, NDOT Division of Aeronautics, Division's annual revenues, excluding federal AIP pass-through funds have decreased over \$1 million since 2006 to a point where there are only minimal state funds available to provide

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

grants to support the development and reconstruction of our airports. This legislation is overdue because over the past several years small airports across the state have had to turn back available federal funds that will have continue-- and will have to continue turning down millions of dollars in federal funds needed to maintain and improve their airports because they can't generate the local matching funds. Improvements that are vital to help keep these airports safe so that they can operate-- accommodate medical flying, assist in the rural medical clinics, hospitals, and to support the advanced medical emergency treatment for allowing medical transport to the larger regional care facilities, allowing airports to support public safety by hosting aircraft wildfires-- for fighting wildfires for the benefit of the community and the surrounding communities. Numerous small airports across Nebraska are not able to take advantage of those funds because they cannot generate the local matching funds, federal dollars that could be used in these rural communities to help foster economic development, increase new dollars to help improve the economic viability of those, of those airports and their communities. From '96 to 2022, the Blair Airport, with partial funding from the Federal Aviation Administration and the assistance of the Division of Aeronautics constructed a 100 by 4,200 concrete runway with turnarounds, parallel taxi lane, park-- parking ramp. Also, constructed a fuel farm, new hangars, new taxi lanes, and a new access road. The Blair Airport Authority commissioned the automated weather observation system and GPS instrument approaches, attracted a fixed-base operator and a new private and corporate tenants. The FAA-- excuse me, the FAA National Based Aircraft Inventory recorded an increase from 38 single engine piston aircraft in '96 to over 55 single engine piston aircraft and over 15 multi-engine piston and jet aircraft being used by Blair Airport. This does not include the city of Omaha helicopter unit, which is vital to the public safety resource for not only the city of Omaha, but the whole region. These projects are funded in part by federal--

LINEHAN: Mr. Storm--

RODNEY STORM: --funds--

LINEHAN: Mr. Storm--

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

RODNEY STORM: --minimal state funding, and the issuance of over \$2 million of local tax dollars through bonds to repay, pay those property--

LINEHAN: Mr. Storm--

RODNEY STORM: --excuse me, repaid by--

LINEHAN: Mr. Storm--

RODNEY STORM: --property taxes.

LINEHAN: Mr. Storm, your time's up.

RODNEY STORM: Just sum it up real quick. We think it's the right thing to do to put these dollars into the airport. If it's good for the highways, it's good for our parks, it's good for the aviation industry.

LINEHAN: Thank you very much, sir. Are there any questions from the committee? Seeing none, thank you very much. Appreciate you being here. Other proponents? Good morning.

NATHAN MASTEN: Good morning, Chairperson, Senators. My name is Nathan Masten, N-a-t-h-a-n M-a-s-t-e-n. I'm the airport manager in Lexington. I'm also the president, chairman of Nebraska Association of Airport Officials. I'm here today to testify in support of LB384, a diversion of sales tax paid on aircraft sales and leasing to a capital improvement fund for airports, airports that make impacts in your communities daily and sales tax that myself and my industry are already, are already paying, an industry that has an overall state impact of \$8.6 billion as shown by the impact study completed at the end of 2019. We're making this request because since the early 2000s, state aid to airports has averaged less than \$200,000 a year. These grants are used to assist your airports in putting together that 10 percent local match required to leverage federal grant funds available to them. However, with the very low funds of state-- low levels of state funds available to assist your airports, we are seeing federal funds expire and actually the result is being they're turned back. That statement is supported by statements made by the state in the Division's capital improvement program update from 2019 where it states that in 2018, almost \$2 million in federal funds expired before the local airports could use them. In 2016, that

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

number was \$3.4 million. One of the consequences not being able to come up with that 10 percent local match and so having to forgo the federal funds is the conditions at your airports is deteriorating. The specific use of these federal funds provided by this bill and the prioritization of the projects might benefit from these additional funds would still be up to the Commission, as stated by Scott Tarry earlier, and as it does now with the limited funds they have available. In reviewing the list of projects presented to the Commission in the past few years, we expect that the vast majority of projects requesting funds would be maintenance projects, projects to repair and maintain runways, taxiways, aprons, or projects to replace airport beacons and runway lighting, not necessarily projects to improve or enhance what the airports have, but simply maintain them in a safe operation. With additional funds, we expect the Aeronautics Commission would be able to fund more projects or fund projects on a higher level. The Division has stated that their intentions for the funds from this bill would be to help with that 10 percent local match to leverage those federal funds that we already have available. While we understand that increasing taxes in the current political climate is problematic, this bill does not ask for new or additional taxes. It allows the use of the taxes generated by our industry to go back to support our industry using a tried-and-true funding method already in place with the NDOT roads and adopted by the Game and Parks Commission. By allowing the sales taxes collected on the sale and leasing of aircraft to go directly to a dedicated capital improvement fund, we improve-- we provide a significant increase in funding Nebraska's airports without a tax increase. That concludes my testimony. If there are any questions, I can answer probably most of them.

LINEHAN: Thank you.

NATHAN MASTEN: And I can address any of the previous questions that were left unanswered.

LINEHAN: Thank you. Are there questions from the committee? So the 79 airports are-- they're not-- we're not talking about Lincoln or Omaha, we're talking--

NATHAN MASTEN: Those airports are included in the 79. Lincoln, Omaha, and Grand Island are the larger commercial air service and so they actually--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Revenue Committee February 10, 2023

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

LINEHAN: [INAUDIBLE]

NATHAN MASTEN: --they're not included necessarily in this 10 percent that we're talking about because they're able to generate funds easier than, say, a Grant or Imperial or a Thedford or Gordon type airport.

LINEHAN: OK. Because they can charge fees to their commercial customers, correct?

NATHAN MASTEN: Yeah. Yep.

LINEHAN: Any other questions from the committee? Seeing none, thank you very much for being here. I appreciate it. Good morning.

JON LARGE: Good morning, Madam Chairman, Senators. My name is Jon Large, J-o-n L-a-r-g-e. I'm from Bennet, Nebraska, and the past president of the Nebraska Association of Airport Officials. I'm here to testify today in support of LB384, the proposal to direct sales taxes on the sales and leasing of aircraft to an Aeronautics Capital Improvement Fund. Per the fiscal note prepared for this bill, this proposal estimates revenues of \$1.4 million in its first year, increasing to \$1.8 million by year four. From an airport perspective, these funds would be a welcome relief. While 90 percent federal funds are available for airport capital improvements, these federal funds require a 10 percent match. For airports that operate on the revenue from fuel sales and hangar rents and agricultural leases and what they can get from a local property tax, this 10 percent share can be a significant challenge, many times requiring our airports to take on significant long-term debt. And this burden is only compounded by the, by the current availability of bipartisan infrastructure law funds. These funds provide a tremendous boost to the size and scale of projects that an airport can undertake, but come with the additional challenge of matching those funds as well. Provided as an example to airports in the form of 5 percent state grants, these funds could help to relieve some of that local burden, help ensure the projects are not deferred or delayed, and facilitate the maintenance and improvement of our infrastructure. From a state perspective, this also seems to have some benefits. In 2022, FAA entitlements to the state and its airports total over \$21 million. Using the projected \$1.4 million to provide a 5 percent match, the state could support all of those entitlements. In fact, at a 5

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

percent match, they could support up to \$28 million in federally funded projects, providing the potential for state match funding on projects using discretionary or billed funds as well. Now not only would this \$28 million help maintain and improve our airports, but it puts those funds directly into Nebraska's economy through the engineering and construction jobs and other expenditures that go along with these airport projects. Beyond their direct impact, money spent as a result of local airport projects in the form of meals, motel rooms, fuel, etcetera, can have a significant impact on a local economy. Based on an example provided in the 2019 Nebraska aeronautics economic impact study, these capital investments could be projected to create over 200 direct jobs, over 150 indirect jobs, and have an overall economic impact of over \$48 million. So for a state investment of \$1.4 million in redirected aviation sales taxes going back to the industry that generated them and invested in capital improvement projects, we can maintain and improve our overall airport infrastructure, partner with our state's airports to carry the financial load, and have a significant impact on the state's economy. In conclusion, I would again state my support for LB384 and offer to answer any questions that I can.

LINEHAN: Thank you very much for being here this morning. Are there questions from the committee? Seeing none, thank you very much.

JON LARGE: You bet.

LINEHAN: Other proponents? Good morning.

TOM CHANDLER: Good morning. Appreciate the opportunity, Chairman and committee members, to speak before you. My name is Tom Chandler, T-o-m C-h-a-n-d-l-e-r. I'm with the Aircraft Owners and Pilots Association and we're the nation's largest organization of aircraft aviation industry representatives with over 300,000 members nationwide and 2,500 right here in Nebraska. And so on their behalf of our folks here in Nebraska, I'm here to support LB384. You've heard some tremendous testimony so I'll weed out some of the details, they've done a great job outlining the needs in the state and how this bill will support the airports. The keys that I would like to bring up with you are-- as a regional manager for my organization, I cover nine states through the center part of the country, basically from Nebraska and Iowa on down and so I see a lot of different funding mechanisms in different states and how those work. And one of

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

the main reasons I wanted to come here today is because Nebraska is at the bottom of my nine states in the amount of funding that the states provide into the aircraft system. For example, some of your neighbors: Iowa funds into their airport system \$8 million a year; Kansas, \$5 million a year; Arkansas, 15; and Oklahoma, \$8 million a year. So I was really excited to see this opportunity to be able to increase the funding into Nebraska's airports because it's desperately needed. I know they've been working this bill for at least three different sessions, and so it would be wonderful to see that go forward. And the manner in which they intend to spend these funds to leverage the FAA grants at 9 to 1, I mean, it's a tremendous investment that ends up back into your communities and tends to support the rural committee-- communities more than anyone, because those are typically the ones that are coming up a little short and struggling to make those matched dollars. And so that, that hits a lot of different points on, helped your agricultural industry and the sprayers that are out there in the rural areas, the medical transportation. There are a lot of doctors that go out and do rural medicine using aircraft so that they can hit multiple communities in a day. So this hits a lot of different points and so I ask on behalf of our members that you all support LB384.

LINEHAN: Thank you very much for being here. Oh, wait. Are there any questions?

TOM CHANDLER: Oh, sorry.

LINEHAN: There might be. Maybe not, you're all doing such a good job there's very few questions.

ALBRECHT: Do, do-- you know, I do want to just ask--

LINEHAN: Senator Albrecht. Yes.

ALBRECHT: Thank you very much.

LINEHAN: Uh-huh.

ALBRECHT: I just want to ask a quick question. Do you think because Nebraska didn't really have the aeronautics program-- I mean, this just kind of came on in the last year or two, right, I'm thinking. Do you think that's why we haven't really been paying much attention to--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Revenue Committee February 10, 2023

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

TOM CHANDLER: I think you've had it. It, it changed the, the manner in which it was formed. And I think it just recently, in the past couple of years, came under the DOT, which may have given it more visibility existed before then. And so I think that's, you know, brought it to light. But it's been there and, and, you know, justifies some additional funding and has some catching up to do.

ALBRECHT: I do know in northeast Nebraska, I think every one of my counties has a small airport that they would like to see this happen.

TOM CHANDLER: Exactly. I would say these are basically off-ramps from the air, you know, and you don't want to lose your off-ramp to your city.

ALBRECHT: Correct. Thank you very much for being here.

TOM CHANDLER: Thank you.

LINEHAN: Thank you, Senator Albrecht. Are there other questions from the committee? Don't know where my committee is. Seeing--

TOM CHANDLER: That's all right.

LINEHAN: They, they are doing other hearings. That's what's going on. Thank you--

TOM CHANDLER: Thank you.

LINEHAN: --very much. Other proponents? Are there any opponents? Is there anyone wanting to testify in the neutral position? OK, Senator Bostar. Do we have letters? We did have letters, that was you. We had 27 proponents, zero opponents, and zero neutral.

BOSTAR: Those are good numbers.

LINEHAN: Yes.

BOSTAR: Chair Linehan, fellow members of the committee, thank you for your time and attention to this important matter. Last year, our committee heard and advanced the constitutional amendment to allow our commercial airports to engage in, in certain agreements with airlines in order to attract air service and, and I thank all of you who were here last year for your help in doing that. And so we got on

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

the ballot and then over the summer, Chair Linehan, then Sen-- well, actually, at the time-- Congressman Flood, myself, we flew around the state to airports across the state to do-- to talk to communities and educate them about airports and this, this measure in particular. But while we were there, you know, we heard from airports across the state about the challenges they have. And, and I think that, you know, when we hear that we're, you know, one of the most underfunded airport, you know, state airport systems in the country, that's significant. And I think we need to pay attention to that. Also, you know, you heard, I think it was maybe-- maybe it was 20 years ago, we, we had 91 airports, if, if I heard correctly. And, you know, right now we have 79. We're going to keep losing them. There's no question about it. And we're going to, we're going to lose them in the rural areas that where it's significant, you know, if you lose your local airport, that's, that's a real-- that's a loss to your community. And once they go away-- I don't know the last time we built a new airport in the state of Nebraska. So I would implore the committee to work to try to keep the ones we have. And these dollars being leveraged 9 to 1 from, from the federal government, which, by the way, those federal funds are going to be spent no matter what. So it's a matter of whether or not we take advantage of the opportunities that we have as a state or if we are going to let other states outcompete us. And so I think this is a, this is a-- really a reasonable measure that uses mechanisms that we've put in place before. And I encourage you to support this legislation, and I'd be happy to answer other questions.

LINEHAN: Thank you, Senator Bostar. Any questions from the committee? Seeing none, that brings our hearing on LB384 to a close.

BOSTAR: Thank you.

LINEHAN: Thank you. Senator Albrecht, I don't care if you change [INAUDIBLE].

BRIESE: Thank you, Senator Linehan. Go ahead and we'll open the hearing on LB496.

LINEHAN: Good morning again, Revenue Committee, Senator Briese and members. OK. I am Lou Ann Linehan, that part I know, L-o-u A-n-n L-i-n-e-h-a-n. I'm from Legislative District 39, which is Elkhorn and Waterloo in Douglas County. I'm here today to present LB496. LB496

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

would exempt from sales and use taxation the sale or purchase of business inputs as defined therein. Under the bill, the business input is a product or service by purchased-- purchase that meets the following requirements. A business input must be a product or service that is being purchased by a business entity from a retailer. A business input must be used by the purchasing entity in a way that is directly related to the production or provision of the service. The cost of the business input must be passed on for the purchasing customer and the customer purchasing the business input must reasonably be considered to be the end user, end user consumer of the product or service produced by purchasing, purchasing entity. It should come as no surprise to this committee that this, that this session of our body could be best characterized as placing a strong emphasis on our children and their education, economic development, and tax reform. LB496 speaks to the latter, the latter two. By providing this tax incentive, businesses are encouraged to start and continue to develop new products and services to manufacture, produce, and provide newly developed and old products and services locally to remain in our great state. For all of these reasons, I request the committee approve and advance LB496. So actually, I don't-- this bill is not-- we can't-- I don't have any anticipation that we would pass it this year. But here's what I would like to do. Since I've been Chair of the Revenue Committee, there is great confusion as to what is an input and what's not an input. I've learned in the last four years that there are states who have defined this. We seem to have a loosey-goosey system that sometimes it's taxed, sometimes it's not, sometimes it's covered by incentives, and then the incentives expire and then they come to the Revenue Committee and they go, we shouldn't be paying sales tax on this. It's an input. Well, you've been doing it for ten years, why are you here now? Well, because under the incentive package, we didn't have to pay sales taxes, but now it should have never been taxed in the first place. So I think it would serve the state and our up-and-down revenues on these things if we would have some definitions that we could fall back on, the Department of Revenue understood them, instead of, like, every year we get, oh, we got a problem. So that's the purpose. I'm not-- it will take some time, it'll take some help from industry and the chambers to figure it out. But I think we need to try and get that done over the next two years.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

BRIESE: OK. Thank, thank you, Senator Linehan. Any questions for the senator? Seeing none, thank you. First proponent testifier, please. Welcome.

STACY WATSON: Hi, Senator Briese, committee. My name is Stacy Watson, S-t-a-c-y W-a-t-s-o-n, and I am testifying on behalf of the Nebraska Chamber. I am definitely in favor of a bill that is going to define business inputs. We need a bill that exempts the products that go into something else that is resold from sales tax. So basically we're not paying sales tax on something twice. That's not how our system is supposed to work when you use sales tax. If we wanted a system that worked that way, we'd probably live in Europe or Canada. We'd have a value added tax. We don't have a value added tax. We have a sales tax and the sales tax is only supposed to be paid once, basically, on the end-- to the end user pays it for everything that goes into that product in a reasonable manner, obviously. Right? I'm an accountant, you don't currently charge tax on my services. I wouldn't tell you my desk is a business input, but I would obviously tell you the software that I use to produce my service would be a business input. Unfortunately, because we haven't defined this well in our statutes previously, whether or not you're a manufacturer or you have other taxable services that you provide in the state, the Department of Revenue defines it for you. And in the way it just kind of works for them, if you don't exempt it, they tax it. Well, businesses believe that, obviously, it goes into my product, right? I use it. I can consume it during the making of my product in a direct manner. But, yet, the department will come in and say, well, yeast and bread, I mean, let's all think about it, does yeast help produce bread? The answer is obviously yes. But it's not maintained in the final product, you use it up during the process. And so the state has come in and said, well, I mean, yeah, you used it, but ultimately it's doing nothing at the end. Well, we couldn't have made bread without it. So these are the types of arguments that we've had or for a lot of our software producers, they use other softwares in their software to make their software run, right? It's very confusing from a software perspective because I'm an accountant, again, not a software provider, but when they plug someone else's tool into their tool, the state's like, well, you should pay sales tax on that, even though ultimately I'm going to charge my consumer for every single thing that I've plugged in along the way. So it affects people on the service side, on the manufacturing side. And I don't think it's the

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

Department of Revenue's job to legislate, I think it's your job to legislate. And while this definition isn't perfect and we need to improve it over the next year or two, whenever we can get it to be passed, I think it's really important to the future of the businesses in Nebraska. Businesses will pay tax when it's clear and defined, and they don't mind doing that. No one's saying I don't want to pay sales tax on things. But when it's not clear, it's not defined, and we're surprised about the Department of Revenue, every time I go to an out-of-state conference, they see that I'm from Nebraska, people actually come and find me and yell at me over decisions made by the Department of Revenue because our statutes aren't well defined. So I would encourage you to look at this definition, to talk to businesses and decide, you know, as a state, what do we want a business input to be? What do we want that to look like? And put that in the statute so that it no longer is a problem. Again, been here before, totally love sales tax, so if you have any questions, I am happy to answer them.

BRIESE: Thank you, Ms. Watson. Any questions? Seeing none, you said that you didn't think this was quite perfect. Any change-- what changes would you make to the definition here?

STACY WATSON: I would definitely use directly used and consumed and probably take out the word retailer because sometimes a manufacturer will sell the, you know, the product at wholesale. And I think if it's tied to maybe the word retailer, the Department of Revenue is going to be like, well, you're, you're not a retailer. I'm a wholesaler. Right? And so there's just some minor-- I mean, I would make it as plain as possible to say directly used and consumed. And on the manufacturing side, sometimes it's easier to define when that process starts or ends. Some states define it, you know, as soon as it gets on a truck to come and then get on a conveyor belt and head in, and then all the way until it leaves your building, packaging, everything, refrigeration, and goes to the final consumer. Some states are literally the entire process. Nebraska currently is only as it's changing. So the stuff that's out there before it comes in the door doesn't count. And as, you know, and after it's all changed up, they don't want to count it either. So I think we need to decide how broad our definition is going to be, but directly used and consumed. The hard part for you guys will be where that begins and where does that end. Right?

BRIESE: OK.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

STACY WATSON: So.

BRIESE: Very good. Thank you. Any other questions? Seeing no other questions, thank you for your testimony.

STACY WATSON: Thanks.

BRIESE: Next proponent testifier, please. No other proponents. How about opponent testifiers? Seeing none, how about neutral testifiers? Welcome.

JIM GREISCH: Senator Briese, thank you. Members of the committee, thank you again for having me today. I'm Jim Greisch, J-i-m G-r-e-i-s-c-h. I'm here today representing the Greater Omaha Chamber of Commerce, the Lincoln Chamber of Commerce, the Platte Institute, and Blueprint Nebraska. And at least for the moment, we offer a neutral position on LB496, the legislation that would provide a definition of business inputs for Nebraska's tax code as to sales tax exemptions for these products. We certainly thank Senator Linehan for her continued effort to bring this important matter before the committee for further conversation. As I told you last week, I've appeared before this committee many times in my capacities as the chairman of Blueprint Nebraska's Tax Modernization Committee, chairman of the Omaha Chamber's Public Policy Committee, and chairman of the Greater Omaha Chamber's Economic Development Committee. The goal of Blueprint and the allied efforts has been to transform Nebraska's tax code in a way that fosters competitiveness, one that is transparent, fair, and equitable. The chambers, et al., have agreed on that. The matter of business inputs has been a constant in this long discussion. Key to that is the basic-- is, is the principle that-- basic principle that inputs should not be subject to sales tax. That's rule one. Taxing inputs results in pyramiding, pyramiding resulting in a cascade of tax layers that would make recent inflation seem tame by comparison. It's clearly contrary to the core principle. It would be uncompetitive and inequitable. So why are we neutral today? I'm sure many of you thought, well, Jim's here again. He's going to tell us we got to do this. You know, when we assess the efficacy of any proposed language in any bill, we ask ourselves, does the language as proposed provide the direction that is elastic enough to be applicable to our economy today and as it evolves in the future? In many bills, this is easy to discern. When it comes to things like business inputs, well, it's a little more difficult

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

matter to tackle. The conundrum here is finding a definition that is inclusive, effective, and provides business and prospective new employers with a level of clarity and certainty that reduces the number of disputes that come with vague and directionless definitions. A learned colleague from the State Chamber, with whom we've spent many hours discussing this, highlighted that perfectly. We believe that needs more study. And I've testified before this committee on reasons why this is a difficult process. It's quite possibly impossible, if that's a proper grammatical phrase, to craft a definition that will fit for eternity, much less next year. We regularly see definitions that attempt to define what is integral, essential, necessary or indispensable to business as a means to define an input. We note the inherent challenge here. What may, what may be all of those today can be rendered obsolete tomorrow by research and development and innovation. How to arrive at a definition that will both serve the current economy and that of the coming years is the question of the hour. How can we do this without members of the Revenue Committee having to face a new round of bills next year from businesses who present a logical case, but they-- when they were inadvertently left out of the previous definition? How can we do this in a fashion that will avoid disputes with the Department of Revenue? How can we do this and account for something that is essential to the producing of a product but does not itself survive the process to remain a part of the final product? The current language, as offered in our opinion, does not meet that test. So what do we do now? Ideally, business inputs would be exempted from sales tax based upon the identity of the purchaser and I know you've heard me say that before. It's a nice thought, but it's difficult. Thus, thus far, many states have made binary choices that are not as clear cut as a definition would be, because the same good or service may be purchased by both business and end user consumers. The challenge is obvious. Another possible answer is to adopt a conforming definition tied to the federal definition of business expenses as outlined in the Internal Revenue Code Section 162. In that definition, you'll find words like "ordinary" and "necessary." But even this choice has flaws. The ordinary half of, of that will most likely trigger some debate. The necessary part might be easier. Businesses buy iron ore that's made into steel and it's made into cars. They also buy many items which have nothing to do with the product, but they find their way to the ultimate consumer. Think about the chemical that's added to paint, added to that steel. That chemical goes away the minute the

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

paint is, is applied. But it can't be, the paint can't be applied without it. Were I to go on, and perhaps, thankfully for you I won't this morning, I could provide many other examples of the issues with trying to define this term. We can see the overall intent of your language here, though. You're trying to impose a sales tax on final consumption of both goods and services. You're clearly trying to avoid taxing intermediate transactions, the fancy term for business inputs to avoid tax pyramiding. You're trying to be fair, you're trying to be transparent, and you're trying to be equitable. We applaud all of those things. To get this right, though, which we know you are trying to accomplish here, will require a little bit more study, some comprehensive discussion and debate. We understand this is an important issue, but we think the time is now for an interim study that would serve businesses in Nebraska best as a, as a means to get the definition for business inputs as you seek to modernize tax policy to achieve long-term competitiveness. I thank you for your time today. I'd be happy to answer any questions you may have.

BRIESE: Thank you for your testimony, Mr. Greisch. Any questions? Seeing none, but I, I think the bottom line of your testimony is that there are no easy answers here. Correct?

JIM GREISCH: Senator, you've heard me say before, if this were easy, every state would have it. But, you know, we really don't see that. We, we see it almost every year that someone tries. Utah's tried three times in the last decade and still hasn't gotten it. The states that are getting it closer, Michigan, by way of example, Iowa is getting closer. We think those are the right directions. But even those definitions are not perfect. I doubt we're going to find a perfect definition, as you've heard me say before. We're just looking for one that contains the least amount of pain. The objective would clearly be to drive the amount of sales tax paid by businesses down from its current roughly 43 percent of the total sales tax burden below 40. And if we could achieve that, that would be preferable. And bringing more end user consumers paying tax into the mix, that would, you know, clearly be better.

BRIESE: OK, very good. Thank you. Anyone else? Seeing no other questions, thank you again for your testimony. Any other neutral testifiers? Seeing none, Senator Linehan, would you like to close?

TOMAS WEEKLY: We did have letters.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Revenue Committee February 10, 2023

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

BRIESE: Yes, I believe we have one proponent letter and one opponent letter.

LINEHAN: I'd like to thank Ms. Watson and Mr. Greisch for being here, and I appreciate their comments. I'm glad, but I think we've stared at this problem for quite some time. And as I said in my opening, I know it's not ready for prime time, but I would really appreciate if we could figure out over the summer, maybe it's an interim study. I don't want to hear about this for six years as a Revenue Chair and we do nothing about it. So I don't think we should let the perfect be the enemy of better and it's clearly an issue. So I would invite everybody to get together with this after we're out of this session, June, before we come back in in January of next year and figure out an answer. So thank you.

BRIESE: Thank you, Senator. Any questions? Seeing none, thank you.

LINEHAN: Thank you.

BRIESE: And that'll close the hearing on LB496.

[BREAK]

LINEHAN: [RECORDER MALFUNCTION] public hearing. My name is Lou Ann Linehan. I'm from Elkhorn, Nebraska, and represent Legislative District 39. I serve as Chair of this committee. The committee will take up the bills in the order they are posted outside of the hearing room. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on proposed legislation before us today. We do ask that you limit handouts. If you are unable to attend a public hearing and would like your position stated for the record, you may submit your position and any comments using the Legislature's website by 12 p.m. the day prior to the hearing. Letters emailed to a senator or staff member will not be part of the permanent record. If you are unable to attend and testify at a public hearing due to a disability, you may use Nebraska's legislators [SIC-- Legislature's] website to submit written testimony in lieu of in-person testimony. To better facilitate today's proceedings, I ask that you follow these procedures. Please turn off your cell phones and other electronic devices. The order of testimony is the introducer, proponents, opponents, neutrals and closing remarks. If you will be testifying,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Revenue Committee February 10, 2023

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

please complete the green form and hand it to the committee clerk when you come up to testify. If you have written materials that you would like to distribute to the committee, please hand them to the page to distribute. We need 11 copies for all committee members and staff. If you need additional copies, please ask a page to make copies for you now. When you begin to testify, please state and spell your name for the record and that's first and last name. How many testifiers do we have today? OK. We will use the light system and we will limit testimony to 5 minutes. So you'll have 4 on green and 1 on yellow and then when the red light comes on, I do ask you to stop. If your remarks were reflected in previous testimony or if you would like your position to be known but do not wish to testify, please sign the white form at the back of the room. It will be included in the official record. Please speak directly into the microphone so our transcribers are able to hear your testimony clearly. I would like, now, to introduce committee staff. To my immediate right is legal counsel, Lyle Wheeler. To my immediate left is research analyst, Charles Hamilton. To my left at the end of the table is committee clerk, Tomas Weekly. Now, I would like committee members to introduce themselves starting at my far right.

KAUTH: Kathleen Kauth, Millard, LD31.

VON GILLERN: Brad von Gillern, Legislative District 4, west Omaha and Elkhorn.

ALBRECHT: Hi. Joni Albrecht, District 17.

DUNGAN: George Dungan, District 26, northeast Lincoln.

LINEHAN: And I think we have some other members in other committees where we, I don't think, I know we have some other members in other committees. Today, our afternoon, I'm not sure which-- am I supposed to use this?

TOMAS WEEKLY: Sorry, that was for the morning.

LINEHAN: OK. So this afternoon we have, would you like to stand up, ladies, please? Kaitlyn, who's at UNL, a junior in political science. And Kate--

TOMAS WEEKLY: Amelia.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Revenue Committee February 10, 2023

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

LINEHAN: Amelia. I'm sorry. Amelia. Oh, yeah, Amelia and you're at UNL, political science?

AMELIA STONER: Senior year.

LINEHAN: Senior. Thank you. OK. Please remember, we are all very tired. Please remember that senators may come and go during our hearings as they may have other bills, have bills in other committees to introduce. Refrain from applause or other indications of support or opposition. For our audience, the microphones in the room are not for amplification, but for recording purposes only. Lastly, we use electronic devices to distribute information. Therefore, you may see committee members referencing information on their electronic devices. Be assured that your presence here today and your testimony are important to us and are a critical part of our state government. Thank you very much. And with that, we will open on LB440. Welcome, Senator Albrecht.

ALBRECHT: Thank you.

LINEHAN: Did it go, is it short again?

ALBRECHT: I think we're good.

LINEHAN: OK.

ALBRECHT: Above the microphone. OK. Good afternoon, Chairman, Chairwoman Linehan and members of the Revenue Committee. For the record, my name is Joni Albrecht, J-o-n-i, Albrecht, A-l-b-r-e-c-h-t, and I represent District 17, which includes Dakota, Thurston, Wayne, and a portion of Dixon Counties in northeast Nebraska. We continue to be inundated as elected officials by citizens concerns over high property taxes. One way this body can assist taxpayers is to assure that when possible, they are directly, when possible, our taxpayers are included in the spending decisions. Historically in Nebraska when a necessity was deemed by a local school board to build a new school structure or expand its existing structures, we have held elections to fund those projects. When I vote for a local school board member, I've always believed I was giving that person the authority to make policy, hire staff, purchase supplies, pay utilities through the general fund, and maintain the existing school structure through the use of depreciation funds included in their revenues. I've never

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

believed I was giving that individual the authority to build a new school structure without my approval through an election. Since the advent of levy lids created through LB1059 in 1990 that created the TEEOSA formula, the majority of school districts' building fund has traditionally been limited to a portion of the 5 cent levy allowed over the one dollar local effort rate factor in TEEOSA. The TEEOSA formula is based on classroom needs to educate children. It assumes that a dollar levy is needed to fund the local effort to educate before state aid is given. It does not assume that the new school building will be built with a portion of that local effort. That tradition has been disrupted in Nebraska by an unintended loophole created in the TEEOSA formula. Drastic valuation increases in agricultural land has caused the shift of school funding to property taxpayers. But more important, LB440, it has also caused the local school general fund property tax levies to be driven down by the TEEOSA formula, not by the local school board allowing, local school administrators to convince their school boards to circumvent their traditional process of voter approval for new school construction by using the 14 cent building fund levy and staying under a dollar five max levy. The intent of LB440 is basic to the local control. It will close the unintended loophole limiting school board's ability to build a new school building without the consent of the majority of the local citizens. It will limit school districts to 6 cents from the building fund unless they get approval from their local citizens, or access the remaining 9 cents of the 14 cent total. In other words, school districts could continue to use the 6 cents of the building fund in the same manner that they currently do. If they want to levy more than 6 cents, they would have, they would have to receive the approval of the majority of their local voters at a general or a special election called for that purpose. I should point out that the majority vote provision in Section 79-1098 of LB440 is a change from the current required 55 percent approval of those who attend a special meeting called by the school board, which is a remnant of the old Class I school district provisions. LB440 does not eliminate any of the current uses of the building fund. In fact, it expands it by adding replacement repairs on existing structures. LB440 does not alter the fiscal conservative aspect of using the building fund in lieu of bonding for school construction, what it does is increase the local control by requiring voter approval before a district can levy over 6 cents and no more than 14 cents for the building fund. LB440 would allow projects commenced prior to the effective date of this

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

act to continue the current levy provision through 2031 and 2032 school year. That alleviates the fear of some school districts who are well over 6 cents and have projects in progress. They continue for another five years before they'd have to vote on a levy override of a building fund levy override, but no district may have a total levy of above 14 cents. LB440 requires school boards that levy the special tax under Section 79-10 and to -120 for the school fiscal year of 2022-2023. They'd have to file with an auditor of public accounts a statement describing any projects for which the annual levy may be continued and the rate levied for each project. This new reporting requirement will help identify those projects that were commenced prior to the effective date of this act and are able to continue collecting the levy through the school year of 2031 through 2032, as I previously mentioned. Again, it's our intent to brea, it is the intent to bring this bill was very simple. I just want to give citizens a chance to vote on a major local tax decision. So thank you for listening and I respectfully ask for you to advance LB440 out of committee and on to the floor of the Legislature. Happy to take any questions.

LINEHAN: Thank you, Senator Albrecht. Are there questions from the committee? Seeing none. Thank you very much. You will be here to close.

ALBRECHT: Yes, yes.

LINEHAN: Proponents? Do we have any proponents? Do we have any opponents? Yeah, I assumed. Good afternoon.

MELISSA POLONCIC: Good afternoon. My name is Melissa Poloncic, M-e-l-i-s-s-a P-o-l-o-n-c-i-c. I am the superintendent at DC West Community School District, and I am here testifying on behalf of my school district and Nebraska Council of School Administrators, Nebraska State Education Association and Greater Nebraska Schools Association. We are testifying in opposition of LB440. The building fund is essential to accomplish capital improvements in a school district when a bond election is not possible or needed. Within recent years, legislation has changed the levy capacity of qualified capital purpose undertaking funds from 5 cents to 3 cents and limited the types of projects that could be done. Depreciation funds may only be used for maintenance and repair. The general fund may also be used for maintenance and repair, but is the fund that provides instruction

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

to our students. The building fund currently allows the school district to generate funds which provide for necessary capital improvement projects within a school district, all while staying under the dollar five levy limitation without the cost of an election and sometimes even saving on interest rates in financing. When I started at DC West in 2014, we had real facility issues that needed millions of dollars to get the facilities up to minimal health, safety and accessibility standards. Our school district ran bond issues two consecutive years and lost both of those elections. Our community came together, post bond, and said they knew we needed to tend to the important issues but wanted us to find another way that didn't increase their taxes. Through the growth in valuation, we found a way to use QCPUF and building funds to slowly address code violations, classroom replacements due to air quality, and tend to deferred maintenance projects that have been neglected as well as to turn to some updating and additions of needed educational spaces. In 2019, we built an elementary school as we had a growing population in a 65-year-old facility with six classrooms in portables, our special education rooms in an old locker room and closets and computer labs being used as specialist classrooms. These are not extravagant needs, and this was necessary space. We were transparent in our process, which took multiple years, and our constituents agreed this was an economically efficient way for us to accomplish these needed improvements. Even with a student population growth of 42 percent over the last ten years, passing a bond issue for a middle school and fine arts expansion, and levying available building funds to meet the needs of our elementary school and other small projects, the DC West Board of Education has responsibly stayed at a total of 94 cents. We have dropped our total levy over the past few years all while continuing to use the building fund levy. This has happened because our local school board used quality fiscal management and decision making. The constraints of LB440 would negatively impact all schools ability to address necessary facility needs. The bill would require school districts to hold an election to purchase land, to build classroom additions, or even to establish portable buildings to accommodate growth. These are all necessary actions that school districts need to take in order to care for the growth and education of their school district. Many times in the failure of a bond election, these are small enough projects they should not necessitate-- necessitate an election which has additional expense and prolongs precious time that many school districts do not have in

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

these circumstances. LB440 is currently written to allow school districts to use building funds for some provisions on existing structures, but allows no solution for districts that are rapidly growing or have spaces that need replaced because the existing structures are no longer safe for students. I understand there may be concern across the state of school districts under that dollar five cap, five cap that raised their levy to ten to capital improvements without a vote of the people, yet their boards of education are elected officials and they make decisions in the best interest of their students and their communities in public meetings. I see my light is on. I'll stop there.

LINEHAN: Thank you. Are there questions from the committee? Senator von Gillern.

von GILLERN: Yeah, thank you for being here today.

MELISSA POLONCIC: You--

von GILLERN: Help me. What's your last name?

MELISSA POLONCIC: Poloncic.

von GILLERN: Poloncic. Thank you. Mine gets butchered all the time. I wondered if there was somebody else. Certainly, you had a very unique situation in, in DC West. Just a couple, two quick questions. One has to do, you said that you lost two bond issues, but then you stated that the, that your constituents were highly favorable to the route that you, that you took to get the schools done. How can those-- those two seem to be in conflict. Can you help me understand that?

MELISSA POLONCIC: The bond issue was asking for a large increase because when you start expanding on these code issues, the construction costs really can mushroom. And so we had to break it out into small pieces that we could utilize QCPUF or building funds for. And so we broke it into small increments. The other thing is we use portable buildings, so portable buildings are much cheaper than construction, which was what was in the original bond.

von GILLERN: OK.

MELISSA POLONCIC: My concern with LB440 is, you can't even do a portable building without the vote. And so in that circumstance, we

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

couldn't have even gotten rid of the unsafe classrooms and put up the portable structures that we did.

von GILLERN: Thank you. And then the second question. You talked about, you're holding your levy down to 94 cents. You've got the West Shores area and a couple of pretty substantial areas up there, how much did your valuations increase during that time?

MELISSA POLONCIC: Well, the one year that we decreased quite a bit, we decreased about 13 cents in one year. That was actually because of a TIF neighborhood. That was a property that ruled off of TIF.

von GILLERN: OK.

MELISSA POLONCIC: So there was a large increase in the valuation at that time that we dropped our levy. So we increased in valuation by about 14 percent, but we also decreased our levy about 14 percent.

von GILLERN: OK. Thank you.

LINEHAN: Thank you, Senator von Gillern. Are there other questions from the committee? Thank you for being here. I have a couple.

MELISSA POLONCIC: You bet.

LINEHAN: What does one cent generate?

MELISSA POLONCIC: For DC West, one cent is 130,000.

LINEHAN: OK. So when you, I do appreciate you and for the rest of you, she's in my district and I'm very aware of her. You came to D.C. West when?

MELISSA POLONCIC: Nine years ago.

LINEHAN: Nine years ago. So, and when you got there, had they just merged or didn't merged on.

MELISSA POLONCIC: They had been merged since 2005. So it's about nine years into the merger.

LINEHAN: So things were in, you were kind of in a very significant, how do I want to say it, unique, not good situation.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

MELISSA POLONCIC: Absolutely with building safety and--

LINEHAN: With mold in the classroom.

MELISSA POLONCIC: --48 percent or 48 fire code violations, we had mold in our classrooms. So it's an unsafe air quality which is structurally very difficult to deal with.

LINEHAN: And what was the levy when you got there? Do you remember?

MELISSA POLONCIC: A dollar eight.

LINEHAN: Was a dollar eight when you got there?

MELISSA POLONCIC: Correct.

LINEHAN: And their buildings were a mess?

MELISSA POLONCIC: Correct.

LINEHAN: They're very lucky to find you.

MELISSA POLONCIC: Well, and I have to say the learning community was in place then, so it was a shared tax.

LINEHAN: Ah.

MELISSA POLONCIC: So part of our levy was going into the metro area.

LINEHAN: Yes. Yes. OK. Thank you. Any other questions? Thank you very much.

MELISSA POLONCIC: Thank you.

LINEHAN: Good afternoon.

SUZANNE SAPP: Chairwoman Linehan and members of the Revenue Committee, good afternoon. I'm Suzanne Sapp, S-u-z-a-n-n-e S-a-p-p. I'm on my fifth term on the Board of Education and actually one of public schools and I'm in my fifth year on the Nebraska Association of School Boards Legislative Committee. I'm here on behalf of Ashland-Greenwood Public Schools and the Nebraska Association of School Boards in opposition to LB440. I'm opposed to this bill because of what I've experienced during my 18-plus years on the board

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

at AG. I feel as elected officials, we know the best needs of our districts. The local control we have with the Special Buildings Fund has allowed us to prepare for two different building projects. We have successfully used the Special Building Funds to pass two bonds, one in 2009 and one in 2020. The 2009 bond was passed for \$6 million for additions and remodeling to both of our buildings. Several years before we started to levy into the building fund with 8 cents being the largest amount. With the funds we saved, the increase in valuation and the promise to take that building fund down to zero, we were able to pass that bond at 11 neutral amount of a dollar nine. In 2016 in anticipation of another bond, we began to levy the Special Building Fund for the first time since 2008 by putting in three and a half cents. We were also able to lower the tax rate down from a dollar nine to a dollar four. Over the next four years, we continued to increase the tax rate for the Special Building Fund, all while lowering our total levy. In 2020, we presented the proposed \$59.9 million bond with our tax rate asking down to 99 and a half cents at the time. We told our constituents with the passing of the bond, we once again would take that Special Building Fund back down to zero. We're very confident that the increase of valuations, the lowering of that fund, we would not be asking more than a dollar one for the bond and hoped we could stay levy neutral. Our bond passed. We were able to purchase 60-acres of land for the new building and the following year we lowered our tax asking down to 92 and a half cents. We started construction immediately on the pre-K through second-grade building. With the supply shortage, we had to make some modifications and it resulted in an increase in price. When we put the bids for the new middle school out, the numbers came back high and added to the ink, added to the increase we already experienced, we were \$5 million over our \$59.9 million bond. Our architects and contractors modified cut, sharpen your pencils. With those changes, private donations to the project and the money we had in a Special Building Fund, we were able to move ahead without asking any more from our constituents. We sent out a survey to get a pulse of the people in our district and the response was overwhelming to move forward. If we hadn't saved in the building fund and waited to begin construction on that second building, our current cost of \$285 per square foot would now be over \$500 per square foot, which would have made that building almost twice as expensive as what we are currently paying. I have an education degree. I taught fifth grade. I coached for many years and substitute taught. I chose to spend so many years on the school board

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

because I care about the education of our students in our district and in the state. I came on the board knowing my responsibility on this board is to the students of our district, and I will fight for them. I will also fight for all school board members who earned the right through their elections to their boards, by their constituents, to have local control. I feel that Nebraska has excellent public schools and struggle to understand how the money spent on public education is looked at as an expense. Instead, it should be seen as an investment in our state. Thank you for your time.

LINEHAN: Thank you very much, Ms. Sapp. Are there questions from the committee? What is your levy now, you said.

SUZANNE SAPP: It's, this last year we moved it back up 2 cents, where now it's 94 and a half.

LINEHAN: 94 and a half.

SUZANNE SAPP: Yes.

LINEHAN: And that includes your bond.

SUZANNE SAPP: Bond, yes.

LINEHAN: So how much is your general fund. If you don't know, that's OK. But, but you said at one point you had it, the most you ever use of the building fund was 8 cents.

SUZANNE SAPP: No, we started, we levied it. That was the first bond. The second bond, we started adding to it and by the time that bond passed, we were up to 12 cents.

LINEHAN: OK.

SUZANNE SAPP: But now it is back down to zero.

LINEHAN: OK. So you went up to 12 cents?

SUZANNE SAPP: Yes, we did.

LINEHAN: You never went to 14 cents.

SUZANNE SAPP: No. We didn't feel like we needed to.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Revenue Committee February 10, 2023

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

LINEHAN: And your superintendent, I'm forgetting his name.

SUZANNE SAPP: Jason Libal.

LINEHAN: Yes. And how long has Jason been there?

SUZANNE SAPP: This is, I believe, his sixth year.

LINEHAN: OK. OK. Are there any other questions from the committee?
Thank you very much for being here.

SUZANNE SAPP: Thank you.

LINEHAN: Appreciate it.

BETH SHASHIKANT: Hello, Senator Albrecht and members of the Revenue Committee. For the record, my name is Beth Shashikant, B-e-t-h S-h-a-s-h-i-k-a-n-t. I'm a school board member for Norfolk Public Schools. Today I am testifying in opposition to this bill as written. I am requesting that the committee consider an amendment to subsection 2 of Section 6 of the bill that amends state statute, Section 79-10120. The proposed language in that portion of the bill would prevent school districts from adding space through the 14 cent levy that a school board is currently able to establish for the Special Building Fund. I am requesting that the committee consider amending that section of LB440 to allow school districts to continue to use the Special Building Fund in the following ways, providing the levy for this fund does not exceed 6 cents. While page 12, line 26 does make mention of the 6 cents, additional clarity is needed to make sure the following can still take place: continue the ability to purchase property; continue the ability to build or add additional space to a building or property; continue the ability to build or add additional space to a building if the dollars are donated or fundraised; continue to purchase relocatable classrooms to address the need for additional classroom space and confirm that schools can continue to complete needed repairs from the general fund in addition to the change proposed in this bill, which would allow repairs to be made from the Special Building Fund. I would now like to provide some perspective as why I'm suggesting these changes. Norfolk Public Schools is a conservative, yet progressive district that operates in an open and transparent manner on all issues. Through comprehensive strategic planning within both our district and community, our

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

stakeholders have requested that the expansion of greenspace around many of our landlocked properties be a priority issue to address whenever possible. Over the years, our district has been able to purchase property next to three of our existing school buildings, allowing for the removal of derelict houses and expanding the space around these school buildings in a cost-effective manner without losing our negotiating authority. Our district has also had to address accessibility issues with many of our older buildings. In one case, an elevator was added to be in full compliance with state and federal law. The most cost-effective manner of installing the elevator was to add it to the building's exterior, which required some new brick and mortar for encapsulation. By completing the project in this manner, we were able to realize significant cost savings. In another instance, our district installed an additional access road to our middle school property. The road was added in order to alleviate a highly congested and inefficient traffic flow issue that caused major safety concerns for pedestrians and drivers in the area. The current proposed legislation would eliminate our district's ability to proactively move forward with these types of projects in the most cost-effective manner. Additionally, our district was able to purchase and renovate an existing property into a facility that houses the entire preschool program for our district, as well as other early childhood programs. This entire project was completed without any bond debt. Finally, Norfolk Public Schools has been fortunate to raise over a million dollars through donations and grants to fund the addition of a career academy, as well as renovations to our high school. This career academy project provided much needed improvements to our vocational facilities in automotive, welding, construction and agriculture. These facility improvements allowed our district to move forward with our strategic planning and the resulting career academies enhance student opportunities to gain insight and experience in various career fields. The success of this project not only helps expose students to various career opportunities at an earlier age, but it also addresses some of the shortages of skilled workers in these areas as well. The dollars utilized by NPS for this project were donated rather than from taxpayer funds. However, under this proposed bill, the project would still have needed to be approved by the voters before being implemented. In closing, I believe with some carefully revised collaborative amendments to LB440, this legislation which be, would be something Norfolk Public Schools could support. I believe my

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

proposed changes would still embody a fully transparent process while also allowing school boards to operate and manage funds effectively. This proposal would also create a mechanism for district patrons to vote on specific decisions when appropriate, while most importantly, maintaining local control. Thank you for your time and service to our state as senators. I hope we will continue to work together to keep Nebraska's public education system strong. It is an asset we do not want to compromise.

LINEHAN: Thank you very much. Are there questions from the committee? So you're saying it's OK to take it down to 6 cents? Like [INAUDIBLE], be the flexibility.

BETH SHASHIKANT: Yes.

LINEHAN: OK. Yes, Senator Dungan.

DUNGAN: Thank you, Chair Linehan, and thank you for being here. Just to clarify so I know kind of where these proposals are coming from, are these just on behalf of the Norfolk Public Schools? Is this on behalf of the school board or is this on behalf of any other organizations?

BETH SHASHIKANT: So I'm here representing the school board. These are projects that our school district undertook. So, yes.

DUNGAN: But in terms of the suggested amendment, though, have you--

BETH SHASHIKANT: Yeah.

DUNGAN: --run this by anybody else in terms of whether other organizations would agree with those?

BETH SHASHIKANT: That I do not know, I think [INAUDIBLE].

DUNGAN: OK. That's all I'm wondering. Thank you very much. I appreciate. It.

LINEHAN: Thank you very much. Are there any other questions? What, what is Norfolk's levy right now?

BETH SHASHIKANT: We're at a dollar five.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

LINEHAN: And do you have bonding too?

BETH SHASHIKANT: No, I don't believe. We have QCPUF funds.

LINEHAN: OK. OK. Any other questions? Thank you very much for being here.

BETH SHASHIKANT: Thank you.

LINEHAN: Appreciate it. Good afternoon.

KYLE FISHER: Good afternoon, Senator Linehan, members of the Revenue Committee. My name is Kyle Fisher, K-y-l-e F-i-s-h-e-r. I am in my 13th year as the school board member for Springfield Platteview Community Schools. Thank you for providing this opportunity to speak on LB440 and the building fund. We have been using the building fund to show our residents and taxpayers that their funds are being used diligently and efficiently. There have been many necessary updates completed. A couple of years ago for our growth and grade school needs, current and future, our voters passed a bond for a new elementary school in Springfield to replace the prior building, and to have greater updates in the second older elementary school to provide a functional and comparable learning environment in both buildings. They were both completed for this current school year and greatly appreciated by the community. We are able to make changes to our buildings to adapt with our needs due to growth and interest. The chain reaction, example of chain reaction of our new elementary school includes turning the old school into our district office. The current district office is to become an activities building, the old gym in the high school that activities are moving out of will become the new weights and fitness room, and the old weight, weight room has yet to be determined as there are several expressed, expressed interest in turning that into another designated area. One key control element currently in place is that the building fund falls within the limitations of the dollar five maximum levy. There are additional controls already in place as well, such as the levy limit, spending limit, reserves limit, and the budget limit. That budget limit can also impact the spending and/or the revenue. In Springfield Platteview, we lowered our levy by 10 cents with this control in place. A primary concern of LB440 is the process of using bonds rather than the building fund. Bonding adds unnecessary time and cost of elections for needs that are currently within the building fund.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

One of the example of this would be in regard to site acquisitions. While this is permissible to be held in executive session within the Open Meetings Act, requiring that bond process and its planning goes against that. If an election is needed before any property may be purchased, a district will have less negotiating power to save cost of its constituents. Now some would say the impression of this bill is to remove control from the local boards and to add levels of requirements, which dissipates efficiency and increases cost, thus either raising taxes or diminishing the buildings over time. I believe it was a response with good intentions, but is not needed or a practical approach. Local boards are elected by the same voters you are. Hold public budget hearings and are totally accountable for their financial decisions in district infrastructure planning. If there is a dissatisfaction in how school boards utilize the funding tools available, there's already a recourse for their constituents and voters. And what I would like to add, when this body abolished the common levy a few years ago, it created a foundation and confidence to our taxpayers to pass that recent bond. Want to thank you for their confidence in local control. And thank you again for this opportunity and I ask that LB440 not be advanced from the committee.

LINEHAN: Thank you, Mr. Fisher. Are there questions from the committee? I'm confused. So you did pass a bond to build a new elementary school, right?

KYLE FISHER: Yes, we did that.

LINEHAN: And how much was, what was that bond for?

KYLE FISHER: \$26 million to build one new school and renovate another.

LINEHAN: OK. So how much, what is your levy now?

KYLE FISHER: 78 cents.

LINEHAN: And how much of the builds, how many?

KYLE FISHER: 14.

LINEHAN: You're using 14 cents?

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

KYLE FISHER: Yes.

LINEHAN: But you passed a bond so you could have done OK.

KYLE FISHER: There are many.

LINEHAN: You could use the 14 cents.

KYLE FISHER: What's that?

LINEHAN: You didn't have any trouble passing the bond?

KYLE FISHER: Not this time.

LINEHAN: OK, but--

KYLE FISHER: The--

LINEHAN: --I don't see what you did that you couldn't, you couldn't do now. If this bill passed, what do you think you couldn't do?

KYLE FISHER: The chain reaction of renovating all the other buildings that were created by that would under the new rule being building renovations or structure additions, what each need a, would need bonds rather than the build, doing it through the building fund projection.

LINEHAN: We'll ask Senator Albrecht when she gets back up here, because I haven't read the whole bill, but I don't think that's what it's saying, just say you want a vote--

KYLE FISHER: And that--

LINEHAN: --of the people to use the building fund above 6 cents.

KYLE FISHER: Well, it would be an understatement to add on a classroom or something, require in the new rule would require a bond, whereas currently it could be through the building fund.

LINEHAN: OK. Well, I think there's confusion--

KYLE FISHER: OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Revenue Committee February 10, 2023

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

LINEHAN: --and we need to work on. But I understand for them. I don't know, and I'm Chairman of the committee, so. Anybody else got questions? Thank you very much for being here.

KYLE FISHER: Thank you.

CHIP KAY: Good afternoon, Senator Linehan and committee.

LINEHAN: Good afternoon.

CHIP KAY: Thanks for hanging in on a Friday afternoon.

LINEHAN: Yeah.

CHIP KAY: My name is Chip Kay, C-h-i-p K-a-y. I'm the director of Finance and Human Resources for Columbus Public Schools. I'm representing STANCE at today's hearing. STANCE is made up of 12 districts representing Nebraska from east to west, north to south, large to small, equalized, study equalized. We do not employ a lobbyist but believe great policy is created through educated collaboration and dialogue. LB440 is a bill that challenges the authority of local elected officials to make financial decisions on how to use their dollar five levy lid that is set by state statute. And to make restrictions on how local elected boards can do what is best for their stakeholders will further continue to compound the fiscal problems for Nebraska public schools. In LB440, the proposal to eliminate the use of the building fund to construct a new school building, add additional footage to existing school buildings, or purchase sites upon which new buildings would be located, without doing a, without the approval of the people, of the people through an election is going to be very difficult. Purchasing land oftentimes is a board negotiated item. Now, being an election would increase the cost of the land purchase through public knowledge. We would expect bidding wars as well as the cost of the election. The timeliness of making a land purchase also saves taxpayer dollars. The purpose of placing funds into the building fund is to meet the strategic long-term planned objectives. The time and resources that go into making a land purchase for future growth is something that every school board and superintendent takes on with a sharp focus on meeting future objectives while not burdening taxpayers. Adding additional classrooms is something that addresses growth and in most cases is planned when buildings are constructed, leaving space and

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

ease of access to make efficient and cost-effective additions due to growth. Over the last 20 years, Columbus Public Schools has made classroom additions to all seven buildings where students are located to minimize large one-time bond issues. During this time, the district only needed one bond issue, and that was due to the quick and excessive growth of student enrollment and programs at a rate more rapid than the building fund could sustain. From 1994 to 2014, Columbus Public Schools met growth and program needs by building classroom additions using building fund proceeds and saved taxpayers an estimated \$1 million in interest, pre-bond costs and bond election cost. This type of fiscal responsibility should not be restricted or punished. Building a new building is quite a task and there could be a case that can be made for such an investment to have full stakeholder support. My concern with the addition is that who can do this and who has the levy room? It is this concern. Is there a better way to address than restricting the building fund? A growing district with sound fiscal practices may be able to offset an expensive building project using some funds from the building fund. During my time as superintendent at Shelby-Rising City, we were able to send to the election a bond issue at a reduced amount due to what we had in our building fund. This also allowed us to start the project immediately while waiting for competitive bond rates before executing the disbursement of bond funds. This was a win-win for a small rural district that would not be afforded to them under LB440. There's a levy lid for the Special Building Fund of 14 cents and a total of a dollar five when combined with the general fund. As a school district and local-elected school board, we were given the fiscal parameters to work with. Why does the Legislature feel they need to keep moving the target through new restrictions, caps or other oversight at the state level? The same constituents that elect school board members also elect state senators. We should trust their decisions at most, at both levels of government. At this time STANCE is opposed to seeing LB440 leave committee because it's a solution looking for a problem. It restricts local control. It continues to handcuff schools in finding solutions to better serve our students needs. Local boards should continue to have the autonomy to determine how to use taxpayer dollars up to the dollar five levy lid.

LINEHAN: Thank you. Senator Briese.

BRIESE: Thank you, Chairwoman Linehan, and thanks for your testimony here today. So if you're talking about expanding a building,

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

acquiring land, building a building, oftentimes you have two choices. You can bond it and put it to a vote of the people or you can you a Special Building Fund, correct?

CHIP KAY: Um-hum.

BRIESE: Is the use of the Special Building Fund fairly popular among the patrons of the STANCE schools?

CHIP KAY: I will speak, I'll speak primarily to Columbus, because that's what I'm most, most familiar with, Senator. In Columbus, the answer is yes.

BRIESE: OK.

CHIP KAY: To minimize the bond, for example, we've been studying growth. We made a purchase of land a year ago knowing that in the next 2 to 3 years we would look at what our options are.

BRIESE: OK.

CHIP KAY: If it would be adding on to buildings, we would try to do it through the building fund if we had the room. Yeah, we're, we're a district that's close to the dollar five, which means that any excessive project, we're going to have to bond out, we're going to have to go to a vote of the people. I will tell you, some of the schools in STANCE are up against the dollar five and would have the opportunity to look at some of those projects for 7 to 10--

BRIESE: Yeah.

CHIP KAY: --cents in there.

BRIESE: But relative to Columbus, the vast majority of your patrons probably live in Columbus. The minority of your patrons are probably ag producers, would that be right?

CHIP KAY: Very small percent, Senator.

BRIESE: Are ag producers. So can you tell us about the difference in tax treatment? Who's paying for a bonded project going forward versus who's paying for a Special Building Fund project going forward? Tell

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

us about the disparate treatment between ag producers and nonag owners.

CHIP KAY: Well, you know, in both cases, whether it's a Special Building Fund or a bond, it's, it's taxed. It's taxed levy through property taxes.

BRIESE: And on what percent are ag producers taxed on a bond?

CHIP KAY: On a bond, because of LB2, it's been reduced to 50 percent.

BRIESE: What percent are ag producers taxed on a Special Building Fund project?

CHIP KAY: The regular rate and I believe it's around 75 percent. Forgive me, if I'm incorrect.

BRIESE: OK. So a Special Building Fund project treats nonag producers considerably better in terms of who is paying for it.

CHIP KAY: Can I have you repeat that question?

BRIESE: So a special building, the utilization of the Special Building Fund treats nonag producers considerably better in terms of who's paying for this project.

CHIP KAY: Well, I think it, it's a, it's a taxable entity and we have the ability to use it up to the dollar five. And so we're at the dollar five and all of our taxpayers and I can go back to my time at Shelby, at Shelby, we were 70, gees, probably 75 percent, you know, ag valuation.

BRIESE: Sure.

CHIP KAY: And, but because of that, we also had the much lower levy.

BRIESE: But, but the point is, on a bonded project and ag producers getting taxed at 50 percent, a Special Building Fund project and ag producers getting taxed at 75 percent, hence, the burden is lessen for the nonag folks who constitute the majority of your patrons on a Special Building Fund project.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

CHIP KAY: So what you're saying, well, if I understand what you're saying is LB440 is designed to force more things into bond elections or election.

BRIESE: I'm not talking about LB440 because--

CHIP KAY: OK

BRIESE: --now we're not talking about forcing it into a bond situation.

CHIP KAY: OK.

BRIESE: I'm talking about just in general, what it has done. And the patrons of Columbus Public School, yeah, they have an incentive to, yeah, let's, let's do a Special Building Fund project because we'll get the "aye" guys in on this and help us out a little more. But anyway, so if I was to say that the use of the Special Building Fund versus bonding really undermines the intent of LB2 to a considerable degree, would I be off base?

CHIP KAY: In my opinion, I think so. I think that we've got, we've got statutes in places is to, to ways to use the building fund. We've got the dollar five levy lid. And I don't know of a district that makes a purposeful intent of using the building fund to squeeze more funds out of any sector of their stakeholders. There is a way to do that. Like I said in our example, there's cost to a bond, there's, there's cost to an election. And if we can do 4 to 8 classrooms on to a building in the building fund, we typically know we've got that money up front or we can do it in a short period of time saving money. So it's been my experience that I don't believe any superintendent or school board is taking advantage of the building fund in order to get more money out of the agriculture sector.

BRIESE: Yeah. And perhaps that is true, but it also still, I believe, tends to undermine the intent and the impact of LB2. But anyway, I really appreciate your testimony.

CHIP KAY: Thank you, Senator Briese.

LINEHAN: Thank you, Senator Briese. Senator Kauth.

KAUTH: Thank you, Chair Linehan. Who pays for a special election?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Revenue Committee February 10, 2023

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

CHIP KAY: School districts.

KAUTH: School district does?

CHIP KAY: Yeah.

LINEHAN: Thank you.

CHIP KAY: Thank you for not asking me the cost.

LINEHAN: Thank you, Senator Kauth. Are there other questions from the committee? Senator Dungan.

DUNGAN: Thank you, Chair Linehan, and thank you. Obviously, you and the other testifiers have a lot of information here and I'm just trying to absorb all of it. One of the things you talked about in your testimony with regard to purchasing land is, and another testifier hit this as well, but the board negotiated aspect of that. And I think somebody else had mentioned that allowing the board to negotiate that purchase can essentially drive costs down in the long-term and not pass that along to people of the district. Can you speak a little bit more to that? I'm trying to wrap my head around how that's not passed along in the future and sort of what the benefit is, benefit is of allowing the board to negotiate.

CHIP KAY: Absolutely, Senator. I'd like to use an example for Columbus Public Schools. So we just purchased 79-acres about a year ago recognizing growth. We've had 15 percent growth in the last five years, 5 to 6 years. We contacted a group that was selling about 79-acres and we were able to work with them, our board and their estate. Because we were a school and they wanted to leave a legacy, they knocked \$5,000 off the price per acre. What an amazing gesture. Would they have been able to make that gesture if we're taking it to a vote of the people? And what would bound them in a vote of the people, so our, let's say our constituents vote that, yes, you can spend the \$1.4 million to purchase because that's how we'd have to do the language. The \$1.4 million out of the building fund to, and then which it would be 7 cents for us, in case anybody was curious, to purchase that land. What stops or what stops somebody from going to that estate owner and saying, I'll give you \$1.9 million. So even though our, we voted, our voters have approved, we've been outbid. There's nothing holding the seller to hold that property per our

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

election, nor would it, nor would anybody of us probably sitting here ask them to.

DUNGAN: And then the concern is if they do get that better bid moving forward, then that plan falls through and you'd have to then do another election.

CHIP KAY: Well, I think there's a lot of different things. Number one is would we spend \$1.9 (million)? So now we're back to really looking at our strategic fiscal plan. The second thing is we're paying for a second election for a certain amount, and then we're still holding our breath that we don't get outbid again.

DUNGAN: Got it. Thank you.

CHIP KAY: Yep.

LINEHAN: Thank you, Senator Dungan. Are there other questions from the committee? What is your levy now?

CHIP KAY: A dollar twenty-two, Senator Linehan.

LINEHAN: And how much of that is general fund.

CHIP KAY: Dollar one.

LINEHAN: Dollar one?

CHIP KAY: Yep.

LINEHAN: So you have 4 cents going to.

CHIP KAY: 4 cents going to the building fund, yes, ma'am.

LINEHAN: And then do you have QCPUF?

CHIP KAY: We do not.

LINEHAN: OK. So you have a bond of 18 cents.

CHIP KAY: Roughly.

LINEHAN: And you're a member of GNSA, too, right?

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

CHIP KAY: We are, Senator.

LINEHAN: And so is South Sioux City.

CHIP KAY: That's.

LINEHAN: In GNSA too.

CHIP KAY: Correct.

LINEHAN: So you are the only two schools that are both STANCE and GNSA? I'm thinking because I don't think any of the rest of them are STANCE.

CHIP KAY: That's correct.

LINEHAN: I mean, they're all, the others are STANCE, but not GNSA. I don't exactly, did you just say 79 acres?

CHIP KAY: Yes, ma'am.

LINEHAN: What are you going to do with 79 acres?

CHIP KAY: So one of the things we do in Columbus, we hold public meetings and we allow our stakeholders to have a lot of input on what drives decisions for our students. 79-acres gives us a lot of flexibility from doing everything from another high school to down to an elementary. And the seller did not want to split the ground up.

LINEHAN: So you're going to plan on holding on to almost an 80-acres?

CHIP KAY: Well, I think we'll see what comes out of the plan to build and we'll decide what that footprint needs to look like. And then it would be in the best interest of our community if the district would sell the rest of the land.

LINEHAN: So you can sell it. The seller didn't say you can't sell.

CHIP KAY: That would be correct. We can't sell--

LINEHAN: How.

CHIP KAY: We can't sell, we can't sell it all. The, we are going to have to put a school facility on it.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

LINEHAN: How many acres does your high school, it's what, 12 years old? How old is your high school?

CHIP KAY: Our high school opened in 2017.

LINEHAN: Signed in 12 years ago.

CHIP KAY: I think that footprint before they put the road through it was about 65-acres.

LINEHAN: Did you have all have ball fields and everything on it?

CHIP KAY: We have.

LINEHAN: You're going to have a hard, hard. I'm a farm girl so I mean--

CHIP KAY: Yeah.

LINEHAN: --eighty acres--

CHIP KAY: Yeah.

LINEHAN: --is a lot of land.

CHIP KAY: Yes, it is. So we have, we have a football field and track on it. We have a soccer field, separate soccer field. We have shot and disc areas. We obviously have parking and the building. We have a retention pond. And then where the ball fields would go is undeveloped at this time.

LINEHAN: So is it like, is 80-acres, help me here. Its a quarter mile by a quarter mile by a quarter mile? No, but it's.

BRIESE: Quarter by half.

CHIP KAY: It's, it's a half circle. Would that be a fair statement? Little more than half a circle.

LINEHAN: 80-acres is a half of 160, half a quarter, right.

BRIESE: Yeah.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

CHIP KAY: It's a, it's a rectangle. It's a, it's a true half of circle.

LINEHAN: How, so you have to walk a half mile from one end to the other?

CHIP KAY: I have not walked it, but I do know how far a half a mile is. I just came from the teacher fair at UNL, so. But I'm going to, I'm going to guess that's about a half. It's about a half a mile by a quarter of a mile, rectangle. I'm just estimating that, Senator.

LINEHAN: OK. Any other questions? Thank you very much for being here.

CHIP KAY: Thank you.

LINEHAN: Other proponents? Are there any anyone wanting to testify in the neutral position? Senator Albrecht, would you like to close, please?

ALBRECHT: I'm sure glad they didn't fill the room today--

LINEHAN: Yes, that was nice.

ALBRECHT: --so we wouldn't be here until 7:00 tonight like we were last week. You know, I do appreciate the testifiers coming up. And several were here in 2021 when I had this bill before, pretty much with the same situation that we have today. And again, when it comes to property taxes, it is something that we have to deal with. And again, if we don't rein this in, we had a hearing earlier in January when a school district, their, their voting failed miserably two or three times and they built it anyway. I mean, we have a responsibility to the citizens of the state of Nebraska to control things when I feel they get out of control and there's always a bad apple that does whatever they do to make something like this happen year after year. I have asked several school districts, do you have a building fund? Do you, and a lot of them have said, no, we don't. And I'm thinking, oh, but you must, because they just turn around and build it anyway. So, again, I think this, this bill's come up several times and I just think now is the time. I will tell you all that it did, this bill came out of committee. We just ran out of time in 2021. And it was 8-0. Everybody that sat on this committee agreed that we needed to do something. And I will say and I appreciate Norfolk coming up and asking for an amendment, but we did amend it

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

back in the, in 2021. If you have the bill in front of you, if you turn to page 12, I believe it is. The committee did recommend.

LINEHAN: I'm sorry, Senator Albrecht. What page?

ALBRECHT: I'm sorry, it's. page 12, 126. It's my understanding the committee amended 26 through 29, completing any project specified in Section 2 of this section that require an annual tax levy that exceed 6 cents on each \$100 of taxable value of all taxable property in the district. So there was an amendment made, but also to the fact that they can't use these building funds that they have. If you go back on page 11, it does show on page 11, line 27, on or after the effective date of this act, the school board or Board of Education of any school district may establish a special fund pursuant to this subsection for the purposes of a major infrastructure update on existing structures owned or leased by the school district, including heating, ventilation, air conditioning, roof safety requirements and repairs. The alteration of equipping and furnishing the school buildings for teacher-re. What does that word, teach? What is it?

_____ : Teacher.

ALBRECHT: OK, whatever.

LINEHAN: I agree, whatever.

ALBRECHT: Whatever it is. OK, they use special words on these for us to screw up. OK. The purchase or the erection of a building of less than 1200 square feet of floor space used exclusively for storage or utility purposes with a total value of less than 100, \$100,000. So, I mean, it does lay out everything in here that we're trying to achieve by asking them, you know, I mean, it's great when you can go to the coffee shop and decide, hey, I really think we need to do something like this. But if you take it to the vote of the people and it fails miserably and you build it anyway, it's not just school, it's a lot of things. We have the Lancaster Events Center. It failed miserably and they built it anyway. And when they start to struggle, who do they come to for help? It's us. So I believe that we have a fiduciary responsibility to take care of the people of Nebraska, the taxpayers. And that's why we're here. So that's all I have.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

LINEHAN: Thank you very much. We had on this one, we just have one letter, one opponent. So with that, thank you very much, Senator Albrecht.

ALBRECHT: Thank you.

LINEHAN: That will bring the hearing on LB442 to a close, and we go to LB309. Hello, Senator Bostar.

BOSTAR: Good afternoon. I'd like to just start on a, you know, a bit of an aside. This is my 12th bill introduction of the week. It is the fifth bill introduction of the week in this committee. So thank you all. For Senators Dungan, von Gillern and Kauth, this will be the ninth bill of the week they have heard from me.

von GILLERN: It felt like more to me.

BOSTAR: So let's jump into it. I am Eliot Bostar. That's E-l-i-o-t B-o-s-t-a-r. I represent Legislative District 29 and I'm here to present LB309, a bill that increases the interest rate from 9 percent to 14 percent for unpaid balances of refunds or claims that political subdivisions owe to taxpayers. This adjustment to 14 percent matches the rate that taxpayers must pay to political subdivisions when making payments subject to interest. This legislation establishes a consistent rate that all parties are subject to on both sides of the equation. In 2021, Senator Halloran brought forward LB189, a bill to increase the rate political subdivisions must pay from 0 to 9 percent, as well as mandated, mandating that any debts must be paid in full from the, from the political subdivisions next budget. That part of the provision wasn't passed. In 2022, I carried LB735, an identical piece of legislation to LB309 before you, which continued the conversation where Senator Halloran's LB189 left off. Government should never be held to a lower standard than it holds the taxpayers. We need one consistent interest rate across the board that both political subdivisions and taxpayers must be subject to. It is important that we hold political subdivisions accountable for overpayments owed back to taxpayers. LB309 is a very simple change that provides a consistent standard for both political subdivisions and taxpayers for unpaid property tax balances. I encourage you to support LB309. With that, I thank you for your time and consideration. Am happy to answer any questions. This bill was

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

advanced out of the Revenue Committee last year and I would appreciate it if you would do that again.

LINEHAN: Thank you, Senator Bostar. Are there questions from the committee? It's interesting that the fiscal notes say that from Douglas County says it doesn't cost them anything. Lancaster County says it's not going to cost them anything, but then NACO is probably here.

_____ : Is here.

LINEHAN: Oh, he is. OK. All right.

von GILLERN: I can't stand that. I got to ask a question.

LINEHAN: Oh, I'm sorry.

von GILLERN: I know it's Friday, but.

LINEHAN: No.

von GILLERN: Senator Bostar, 14 percent is obviously punitive. Any idea how that was arrived at? For one direction and I'm not saying you're trying to make them equal, which I, would I certainly don't have a problem with.

BOSTAR: I don't know where the original 14 percent came from. I think it is, it obviously is intentionally punitive, which makes sense. It should be a punitive rate. I don't know how they came to 14 percent.

von GILLERN: All right. Thank you.

LINEHAN: Any other questions? I think if you check history, Senator Bostar, you will find out they raised it to 14 percent when, I think, strips rates were 18 percent and it was cheaper to not pay your property taxes than it was to borrow money, which in your, not in your lifetime, but there was a time when we had 18 percent interest rate.

von GILLERN: Well, that's, I was trying to think of how old, yeah, first.

LINEHAN: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Revenue Committee February 10, 2023

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

BOSTAR: That would make sense.

von GILLERN: Told the story about the first house we bought.

LINEHAN: Yes. I think that's the history. Yes.

von GILLERN: [INAUDIBLE] County.

LINEHAN: But you can, would you please check if that's accurate?

BOSTAR: Sure.

LINEHAN: Thanks. All right. Anybody else have a question? Thank you very much.

BOSTAR: Thank you.

LINEHAN: You're welcome. Are there proponents? Are there any proponents? Are there any opponents? Does anyone want to testify in the neutral position? How do you do this?

BOSTAR: Good afternoon.

LINEHAN: Is there any question? Would you like to close?

BOSTAR: Any other questions?

LINEHAN: Oh, I have letters. Oh, Senator Murman.

BOSTAR: Yes.

LINEHAN: There you go.

MURMAN: Why wouldn't you tie the interest rate like a certain percent above, I guess CPI or whatever would be an appropriate rate so we wouldn't have to adjust it every few years when interest rates change?

BOSTAR: We don't adjust it now.

MURMAN: Right.

BOSTAR: The only adjustment we're making here is to match the rate that has been consistent for a long time that political subdivisions

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

charge taxpayers. There isn't, I don't anticipate that we would be trying to move this rate around going forward. The only intent here is to provide a level of equity and hold political subdivisions to the same standards that, that they hold taxpayers to.

MURMAN: That may be adjusted once a year or something like, you know, for instance, we may be headed to 18 percent again. I didn't think we thought that in the eighties either. But, you know, just, just so we wouldn't have to address that. I don't know how long it's been 14 percent, but maybe more.

BOSTAR: I'm going to, we're going to look into it.

MURMAN: I'm just, think making it simpler, you know, 30 percent above CPI or something like that.

BOSTAR: Fair enough. Thank you.

MURMAN: Thank you.

LINEHAN: Thank you, Senator Murman. Any other questions from committee? We did have two letters. Mr. Cannon must be out of town. He's opposed. And the opponent representing-- opponent from Sidney. And I think that's why that, they're opposed. That will close.

BOSTAR: Is, do the letters, what impact do those have on consent?

LINEHAN: I don't know.

BOSTAR: Thank you very much.

LINEHAN: Find out. And we'll close the hearing on LB309 and welcome Senator Murman. From what I hear, you've had quite a day already-- police, shouting, screaming.

MURMAN: Well, at least you didn't have to listen to the same bill all day.

LINEHAN: Yes, we did. That was last week.

MURMAN: And it was a really good day for me, but that's beside the point. Good afternoon, Chairwoman Linehan, and members of the Revenue Committee. My name is Dave Murman. I'm from District 38. Today I'm

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

here to speak to you about LB809, my bill to expand tax credit within the Nebraska Advantage Rural Development Act. The current statute only allows \$1 million to be distributed annually by the tax commissioner for the program. The credits are approved for each project upon certification of the eligibility of that project. I have a handout for each of you showing the current eligibility requirements. This is an important bill for many reasons, including a significant impact in drawing a dairy processor to the state of Nebraska. The Nebraska Dairy Association is going to speak a little more about this, but the numbers I've seen show us that building a large dairy processing facility will provide \$1.7 billion of annual economic impact to Nebraska while supplying over 4,400 jobs which would pay for this program's allocation 42 and a half times over. States across the country are building dairy processors. A state like Nebraska, which has a robust and active agricultural economy, cannot afford to be late to the game on drawing a dairy processor. Rural vital, revitalization is dependent on livestock growth and development. When you, when we hear about slow economic development in rural Nebraska, you can draw a direct line from the lack of investment in programs like the one described in LB809. I ask you to advance this bill to General File and would be happy to answer any questions.

LINEHAN: Thank you very much. Are there questions for Senator Murman? Seeing none, thank you much.

MURMAN: Thank you.

LINEHAN: Proponents? Good afternoon.

KRIS BOUSQUET: Good afternoon, ma'am, members of the Revenue Committee. My name is Kris Bousquet, K-r-i-s B-o-u-s-q-u-e-t, and I serve as the executive director of the Nebraska State Dairy Association and am testifying in support of Senator Murman's LB809 on behalf of the Ag Leaders Working Group, which consists of, bear with me here, it's quite a few, the Nebraska State Dairy Association, Nebraska Cattlemen, Nebraska Farm Bureau, Corn Growers, Soybean Association, Renewable Fuels Nebraska, Nebraska Wheat Growers, Nebraska Pork Producers, Nebraska Poultry Association, and we're also testifying on behalf of the Nebraska Economic Development Association, York County Development Corporation, and Seward County Chamber and Development Partnership. Revitalizing rural Nebraska has

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

been an important topic for discussion and is, is vital to our state's prosperity. The Nebraska Advantage Rural Development Act has been a great tool for rural communities to help them recruit and support economic development in areas that might not have the resources nor the infrastructure to land big projects. The tax credits within the program provide common sense support to help rural communities overcome these obstacles. The program is heavily utilized. In fact, shortly after the program applications are opened, the \$1 million of current funding is gone. The utilization of these funds stresses the need and the value that this program provides to rural Nebraska. We applaud Senator Murman for bringing this bill and for allocating the additional resources to the program. I think I'm going to go a little bit off script here, but I think what's really important about this program and Senator Murman mentioned, you know, we are trying to actively recruit dairy processors to the community to, to Nebraska as a whole. But this program, the most important reason why we asked him to, to bring this was because dairy farmers would be eligible for it. The biggest worry for a processor, especially a large dairy processor is, can we get the cows? They're completely comfortable with the communities. They're really supportive. The incentive programs that we have are great for the processor, but competition for recruiting dairy farms is getting significantly more difficult. If you look across the country, the dairy industry is growing at a pretty rapid pace. And there's to, to build a new dairy farm, especially the size and scale that is needed to support a facility like we're recruiting currently is roughly \$10,000, \$8,000 to \$10,000 per cow. So on a 8, a 10,000 cow dairy, you're looking at an \$80 million to \$100 million investment in rural Nebraska. Now, when you think about labor input to those facilities, your prob, you're looking at roughly one person per 100 cows. And the University of Nebraska's economic study came back to show that about 4,400 jobs would be created. A lot of these positions would be in rural Nebraska supporting livestock production and grain farming. You know, I can go into a lot of different statistics and data and things like that about why it's important and why we feel that growing the dairy sector is important, but I think Senator Murman touched on it. Landing a dairy processor will significantly boost our state's cow numbers. And if our state's, if one cow equals \$12,000 worth of impact back to the state, that's a pretty big number, especially when we're recruiting projects with 6 million to 8 million pounds of milk processed in these facilities. So when you think about 6 million to 8

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

million pounds of milk, you're probably going to be recruiting about 150 to 175,000 cows to support that project. So the need to recruit dairy farms is significant and it's extremely competitive due to the overall growth of the industry across the United States and this program would go a long way in helping us get them here. You know, I really appreciate the, the consideration of this bill and would be happy to answer any questions if you guys have any. Thank you.

LINEHAN: Thank you very much for being here. Are there questions from the committee? How many, how many dairy operators do we have? Cow operators, dairies?

KRIS BOUSQUET: In Nebraska?

LINEHAN: Yeah.

KRIS BOUSQUET: Yeah. So when I took over, we had 100 and probably 145 and that was about five or six years ago now. And we're down to below 100 and we've got 60,000 cows, lactating dairy cows in the state. And our, our growth and development projects are very real. When you look at Milk Specialties in Norfolk, Nebraska, they're investing roughly \$50 million into that processing facility, which were adding cows to support that project, and that's organic Nebraska growth. When you look at the milk that flows outside of our state, our producers produce 4 million pounds of milk a day. Two million of that pound of that milk goes outside of our borders to be processed. So basically what that does is it, it costs more money for our farmers to get their milk to market. So if you look at overall the United States, the federal order mailbox, mailbox milk price, which is the overall price that the farmers get on their milk check when they, when they take it out of the mailbox, is the second lowest in the country because of the transportation costs that our producers have to incur just to get their product processed. So when you, when you shift that, OK, we've got 60,000 cows in Nebraska, the projects that we're in deep conversations on, and are finalists for, one project alone would require 150,000 cows. We have 60,000 in the state and all of their milk currently has a market. So that would be literally adding 150,000 cows to Nebraska. And so take 150,000 times 12,000, and that gives you the cow impact, but roughly per year, adding in the 1.7 billion number that Senator Murman referenced, that was from an economics study that the University of Nebraska did, just, I think it was two years ago. So it was pre-inflationary numbers. So 1.7 billion

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

of pre-inflationary dollars, today that would be significantly higher. Kind of lost my train of thought, sorry, but it's, it's a lot. I mean, the amount. OK, so I know where I was going with it. So every year, the economic vitality, the direct and indirect economic impact generated from growing the dairy industry will pay for the allocation 42 and a half times every year. So \$40 million over four years, \$1.7 billion. I mean, 40 goes into \$1.7 billion, 42 and a half times and that's the amount of economic impact generated per year from dairy growth.

LINEHAN: Thank you. Are there other questions for the committee? Seeing none, thank you.

von GILLERN: Senator Albrecht has a question.

LINEHAN: Oh, I'm sorry.

ALBRECHT: Kris, you do an amazing job. I can see why you're the director. I couldn't remember those numbers. Yeah, so, but, you know, I also have a bill. Just, I just want to say that I'm caring for the dairy, asking for them to put two--

KRIS BOUSQUET: Two million.

ALBRECHT: --two million, not billion. There's only a billion going on for education, so 2 million into the counties so that they can, it's kind of like an economic development type thing that you give them the 2 million and they have something to work with if somebody comes in and tries to match going into the dairy business in the state of Nebraska. So there are things going on in that field, but I think you've done a fabulous job trying to explain to nonfarmers what it's all about. And cows, they're called cows because they're the mommas. Is that it? I didn't know that, so sorry.

KRIS BOUSQUET: Senator Linehan, the prior dairy farmer.

LINEHAN: Know all about it.

KRIS BOUSQUET: Yeah. Yeah.

LINEHAN: Every morning you get up, you're going to have to go milk, some of the good day, right?

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

KRIS BOUSQUET: Yeah. Senator Murman dairy farmer, too, so, yeah.

LINEHAN: Yeah.

ALBRECHT: Well, thanks for being here, Kris.

KRIS BOUSQUET: Absolutely.

LINEHAN: I know. Just to move this along. Any other questions? OK. Thank you very much.

KRIS BOUSQUET: Yes, ma'am.

LINEHAN: Appreciate it. Are there any other proponents? Are there any opponents? Does anyone want to testify in the neutral position? Senator Murman, would you like to close?

TOMAS WEEKLY: All the [INAUDIBLE].

LINEHAN: What? Oh, letters.

TOMAS WEEKLY: Well, all letters being ADA and testimony I handed out yesterday [INAUDIBLE] That was opponents. just for the record.

LINEHAN: OK. How many, no other letters?

TOMAS WEEKLY: No letters.

LINEHAN: OK. All right.

MURMAN: I just want to mention that we talked a lot about dairy, but it doesn't only fit dairy, it's for all kinds of expansion of processing for livestock in Nebraska.

LINEHAN: It's not for the process, I'm sorry.

MURMAN: It's processor or livestock, actually. So the either the farmer or the processor, so.

LINEHAN: But wouldn't the processor qualify for matching?

MURMAN: Yeah, this is in the Nebraska Rural Advantage Act. It's to expand the, the funding from \$1 million per year to \$10 million over four years, \$10 million per year for four years.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

LINEHAN: Yeah, I know. And you have no opponents.

KAUTH: I have a question about this.

LINEHAN: Yes, go ahead.

KAUTH: So and it's about how that money is, still about who can apply for that? As you look at China building, processing and building plants in our state, do we have restrictions against that happening?

MURMAN: I'm not really that familiar with Nebraska Advantage Act, I guess.

KAUTH: Countries to invest?

LINEHAN: Well, I think only taxpayers, but they would be taxpayers if they were bringing money here.

KAUTH: Yeah.

LINEHAN: But that's something we can look at.

KAUTH: I would just like to know. We're following with the [INAUDIBLE].

MURMAN: I'd just like to say I've had also people talk to me in the district and outside the district that they're trying to entice a processor to come in the state, not a dairy processor, other processors that are very interested in this. It's designed, there's a couple of levels, one's designed for counties under 5,000, 15,000, and the other one, 25,000.

KRIS BOUSQUET: Yeah. So there's a, there's it's a two-tiered program. There's L1 and L2.

MURMAN: So it'll, it'll--

LINEHAN: You're not supposed to talk.

KRIS BOUSQUET: Sorry.

LINEHAN: That's OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Revenue Committee February 10, 2023

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

MURMAN: It'll, yeah. so it only eliminates, I think about ten counties. And other than that, it can be used anywhere in the state.

***LACY SMITH:** An increase from 1 million to 10 million is an unreasonably large change.

LINEHAN: OK. Thank you, Senator Murman. Other questions from the committee? Seeing none, we will bring the hearing on LB809 to a close.

MURMAN: Thanks.

LINEHAN: Thank you very much.