

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee February 23, 2023

**von GILLERN:** And I'll serve as the-- I serve as the Vice Chair of this committee. I'll be serving as Chair while Senator Linehan makes her presentation today. The committee will take up the 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 12 p.m. 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 are 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 proceedings, I ask that you follow these procedures. Please turn off cell phones and other electronic devices. The order of testimony is the introducer, proponents, opponents, neutrals and then, the closing remarks. If you'll 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 a 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 5 minutes. We will use the light system with green for 4 minutes, yellow for one minute remaining and red means to wrap up your comments. If there are many wishing to testify, we will be-- excuse me. 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 in the back of the room and it'll 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 Charles Hamilton, research analyst; 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.

**MURMAN:** Senator Dave Murman, District 38, Glenvil, eight counties in the southern part of the state, in the middle of the state.

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**ALBRECHT:** Hi. Joni Albrecht, District 17, Wayne, Thurston, Dakota, Wayne and of course, you have Dixon. Did I say that already? Welcome.

**von GILLERN:** Thank you. And our pages, if you would stand, we have Amelia, who is at UNL, who's a senior in political science and Caitlin at UNL is a junior political science. Thanks for helping us out today. Please remember that senators may come and go during our hearing, as they have bills to introduce and 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 on LB727. Welcome, Senator Linehan.

**LINEHAN:** Good afternoon, Vice Chairman Gillern-- von Gillern and welcome, Committee. My name is Lou Ann Linehan, L-o-u A-n-n L-i-n-e-h-a-n. I represent Legislative District 39, which is Elkhorn and Waterloo in Douglas County. Today I'm here to introduce LB727, which relates to affording sales and use taxes to certain organizations engaged in private-public projects. Current law provides an exemption for certain purchases by a nonprofit organization, which is party to an agreement with the government-- governmental unit. Typically, this involves lease, lease purchase and financing agreements. Those exemptions won't apply in some situations, which there are individuals here today to testify about. What this bill does, is allows the governmental exemption to pass through to certain organizations when engaged in a public-private project. Many projects, which a governmental entity may find important, do not get completed due to funding. To complete these projects, a public-private partnership is formed through a contract or other means. From the private side, philanthropic funds can be donated to the project. This, oftentimes, involves large amounts of donations and significant expenditures, often which are made for the private side of the partnership and because of how the current statute subjects with purposes, purposes to sales and use tax. LB727 corrects this and allows for much needed relief in these projects and opens more opportunities for future projects for public benefit. I'm handing the page AM361. Hopefully, I am. AM361 clarifies the original purpose of the bill and provides the governmental portion in whole or part to be paid with redevelopment bonds. Again, there will be others and experts behind me to provide additional information about some projects, the legislation and how this benefits all Nebraska, by

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further encouraging more public-private partnerships. I ask you to support LB727 and AM361. I thank you and I'd be happy to answer any questions. So I will be very frank that the people behind me are more apt to be able to answer technical questions.

**von GILLERN:** Noting that, are there any questions from the committee? Seeing none, thank you.

**LINEHAN:** Thank you.

**von GILLERN:** We will welcome our proponent testimony.

**KORBY GILBERTSON:** Good afternoon, Vice Chairman von Gillern, members of the Committee. For the record, my name is Korby Gilbertson, it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the Community Information Trust, in support of LB727. I first want to thank Senator Linehan for working with us on this legislation. And it's my job to kind of explain how we got to the bill and how we got to the amendment. And as you can tell by the number of the bill, it was introduced rather late in the session and we, unfortunately, did not have time to work out kinks before we had to get it turned in. So that's why there's an amendment. Senator Linehan touched on the purpose of this and the underlying statute that we have right now. So if you have a project that really is for a public purpose, the intent is to allow those purchases being made by that nonprofit on behalf of that public entity to be done tax free. Unfortunately, the current makeup of the, the statute doesn't quite fit this situation, where the nonprofit is actually doing the project and then, handing it over to the city, not doing a lease purchase or any other type of financing agreement on it. This is, specifically, for the Omaha Public Library System for the new library. And there are people behind me that can tell you a lot more details about the project, specifically. So in your-- in the amendment, AM361, it states, states that if the funding from the governmental unit is paid in whole or in part with redevelopment bonds and you have the public purpose for the purchases, that would trigger this allowance. So it's a very specific and a limited opening, opening to the sales and use tax statute. And if you have any questions, I'd be happy to answer them.

**von GILLERN:** Any questions from the committee? Seeing none, thank you, Ms. Gilbertson.

**KORBY GILBERTSON:** Great. Thank you.

**RACHEL JACOBSON:** Hi, everyone. Thank you for having me. I'm Rachel Jacobson, J-a-c-o-b-s-o-n. I'm the president of Heritage Omaha. We are a nonprofit organization that builds community assets, with the goal of making Omaha and the region a more dynamic and vibrant place to live. Heritage identifies substantial needs or opportunities with high community impact and supports the realization of viable and sustainable civic projects through philanthropy. So, public libraries are about safe spaces and equitable access to information. Libraries all over the world have had to adapt to rapid change in an information landscape that continues to transform the way we live. And in response to those needs, Heritage, in 2015, created Do Space, which is a community technology library and digital workshop and it's operated by Community Information Trust, which is the 501(c)(3) that will raise the funds and manage the library project. Do Space was designed to bridge the digital divide and it has since served tens of thousands of Omahans, by offering high speed broadband, computer access, technology classes from littles to seniors and innovative services for entrepreneurs. Last year, Heritage, along with the Omaha Public Library, the Omaha Public Library Foundation, the City of Omaha and Do Space announced a schematic design and public engagement phase to explore the possibility of the Central Public Library branch at the Do Space site, which is on 72nd and Dodge, that would further OPL's mission of strengthening our communities by connecting people with ideas, information and innovative services. The new Central Library will integrate Do Space program-- programming, centralized and modernized collections distribution and provide much needed public space for partnerships and community connection. Yes, books, yes, physical collections, but also programs that address the digital divide and safe and adaptable, inclusive spaces for all community members. Last summer, the Omaha City Council unanimously approved \$20 million in redevelopment bonds and Heritage launched a fundraising campaign that, including the city's commitment, will fund the entirety of the capital costs for a new central public library. Meanwhile, the nonprofit, Community Information Trust, intends to donate the property at 72nd and Dodge and the newly constructed library to the city of Omaha for OPL to operate upon completion. So CIT's under binding agreement to transfer ownership of the new library to the city, upon the library's completion. And therefore, purchases related to the new library building, you know, would be exempt. And all savings resulting in this change would be used towards the completion and enhancement of the Central Public Library Project for the benefit of Douglas County and really, the state and the region. So, this vision for the Central Public Library is the result of the incredible philanthropic community of Nebraska and

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integrates many voices and responds to diverse community needs. So there's a couple of emails in your inbox that got to you, probably, a little late, from Rebecca Stavick, the CEO of CIT, and Laura Marlane, the executive director of OPL. So-- but they've been very involved with the creation of this. It should be a really exciting project for our state. So I really appreciate your consideration of this exemption. And thank you.

**von GILLERN:** Thank you. Any questions from the committee? I just have one, Ms. Jacobson.

**RACHEL JACOBSON:** Yeah.

**von GILLERN:** Do, do--are there other projects that you're aware of that will benefit from this or-- I mean, obviously, you're most familiar with the library project, and.

**RACHEL JACOBSON:** I mean, Jacquelyn might know of more the, you know, have redevelopment bond funding. This is the only one that I'm involved with that would benefit directly. So.

**von GILLERN:** OK. All right. Thank you.

**RACHEL JACOBSON:** Thanks.

**von GILLERN:** All right. No other questions. Thank you for your testimony. Any other proponents? Welcome..

**JACQUELYN MORRISON:** Good afternoon, committee and Senator von Gillern. My name is Jacquelyn Morrison, spelled M-o-r-r-i-s-o-n, and I am currently a deputy chief of staff for economic development for Mayor Jean Stothard. I am here today on behalf of the city of Omaha as a proponent of LB727. The city of Omaha is excited about our partnership with Community Information Trust to usher in the next generation of libraries for Omaha. We currently have 13 branches and are currently working to open our brand new downtown branch this spring. The city of Omaha is fully committed to supporting the development of the new Central Library and has committed \$20 million to the project. This bill would allow the public and private dollars, that have already been pledged to support the project, to go even further in providing services to the residents of Omaha and the citizens of Nebraska. The city of Omaha has been a partner in all phases of the development of this project and is fully prepared to take ownership of the library, upon its completion. The need for this bill is twofold. First, it allows the city to leverage our strong public-private partnerships to continue to provide world class public

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amenities and facilities to the residents of Omaha, in conjunction with our philanthropic community. Through partnerships, we are able to continue to grow our city, without adding additional tax burdens to our residents. Our most recent partnership success can be seen in the work that is being done on the Omaha RiverFront, where philanthropy raised over \$300 million for the renovation of the Gene Leahy Mall, the Lewis and Clark Landing and the Heartland of America Park. Since its opening, the Gene Leahy Mall has had over 400,000 visitors, with two other parks slated to open this year. We anticipate the new Central library will be, equally, as successful. Our partnership with CIT has been extremely collaborative, wherein we have sought the input of the city, the community and industry. The result is a revisioning of our library system that will serve generations of Nebraskans. The second benefit to this bill is that it gives the city flexibility to use existing funding sources to fund projects like the new Central Library. The city currently plans to use our existing redevelopment bond levy to fund the library. Since this use does not result in a new tax liability for the taxpayer, it does not require a public vote, as is required by current legislation. It is, however, voted on by our City Council. With this amendment, the city will be able to continue to identify sources of funding for public-private projects, without needing to seek additional funding from taxpayers. For this particular project, we anticipate over \$7 million of savings in sales and use tax that can be put back into the library facility to provide a better programming experience for Omaha residents. Without this partnership, a library of this magnitude would have to be financed by the residents of Omaha or may not even be possible. For these reasons, we support LB727. And I'd be happy to answer any questions.

**von GILLERN:** Questions from the committee? Some question asked earlier got thrown to you. Are there other projects that will benefit from this?

**JACQUELYN MORRISON:** I don't know of any, currently. We do have-- so, for instance, our downtown project, Riverfront Project, that's a partnership with MECA. And so, they have their own exemption. But if we were to do any future projects, it will allow us to use that redevelopment levy that we currently have, rather than having to take a project out to the voters for a new tax source.

**von GILLERN:** OK. Very good. Thank you. All right. Thank you for your testimony today.

**JACQUELYN MORRISON:** Thank you.

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**von GILLERN:** Any other proponents? Seeing none, are there any opponents that would like to speak, regarding LB727? Seeing none, any neutral testifiers? Seeing none, Senator Linehan, would you like to close? Senator Linehan waives closing. And we have no letters for the record regarding this bill, so we will close the hearing on LB727.

**LINEHAN:** We will open on-- hearing on LB491. Welcome.

**von GILLERN:** Good afternoon, Chairwoman Linehan and the Revenue Committee members. For the record, my name is Senator Brad von Gillern, B-r-a-d v-o-n G-i-l-l-e-r-n. I represent District 4, which is parts of west Omaha and Elkhorn. This bill addresses the Nebraska Advantage Research and Development Act. The Act was created in 2005 by the Legislature. The program had a sunset at the end of 2022. I think this is a valuable act and that we need to put it back in place. Research and development programs help drive us forward. We have a number of representatives from those fields who will elaborate on what those innovations mean to the state and beyond. What the Act does is establish two state credits-- stud-- excuse me-- establish two state tax credits of businesses incurring research and experimental expenditures. There are two paths for these credits. First, there's a 15 percent of the federal credit for private research and development projects. Secondly, or, or, or 35 percent of the federal credit for research and development projects, in partnership with a Nebraska college or university. LB491 addresses-- also addresses some E-Verify compliance issues that need to be cleaned up. In 2009, the act was amended so that all businesses and firms claiming the credit would have to E-Verify every employee before coming-- becoming eligible. LB491 retains those requirements, but establishes that businesses have 90 days upon hire to complete those checks. Previously, there was no time element, only saying that had to be completed in a timely manner. On the note of E-Verify, the Chief Corporation has told me that this is an important piece for them. Also, Lindsay Corporation wanted to be here today for that specific piece as well. Unfortunately, they can't attend, but wanted to convey that this has been a challenge for them and feel the current timeline needs to be addressed. LB491 would also remove the 20-year cap on the eligibility for the program. Under the previous R&D program, this cap on eligibility handcuffed established companies from being able to continue claiming these credits. I think it's advisable to allow companies to claim the credit for 20 years and beyond, to engage in additional projects and just a matter of continuity. It seems to make sense. Before I close, I want to mention a theme we keep hearing that is keeping Nebraskans-- keeping Nebraska competitive. The Platte Institute submitted a letter in support of

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the bill and notes, the 2000-- or 2019 Growing the Good Life, Life Blueprint Nebraska report, that we have not kept pace with our peer states. Innovation is a key factor to that. We need policy that attracts and grows businesses and talent and LB491 is a part of that. You'll find, in the handout, a brief prepared by the Nebraska Chamber-- I'm sorry. I've got handouts I forgot to give you. Thank you-- with an overview of where Nebraska is with research and development. Some notable facts from that report. I point you to the return on investment, the ROI, the track record of the Nebraska Business Innovation Act, although that's not just R&D, as it contains prototyping and commercialization support. You'll get an idea of how vital these programs are: 1,600 jobs created from funded projects, averages-- average wages of \$65,300 in 2022, a 10 to 1 gain in private funds committed to R&D and innovation projects and services, 12 to 1 gain in business, in business revenue growth after grants were awarded and \$752 million in total annual economic impact. These figures speak for themselves. I'm happy to answer any questions and you'll find some testifiers behind me that will answer some more specifics about this bill. Thank you.

**LINEHAN:** Thank you. Are there questions from the committee? Seeing none, thank you very much. First, we'll have proponents. Good afternoon.

**MATTHEW OTTEMANN:** Good afternoon, Senators. My name is Matthew Ottemann, spelled M-a-t-t-h-e-w O-t-t-e-m-a-n-n. I'm here testifying on behalf of the Lincoln and Greater Omaha Chambers of Commerce, in support of LB491. I'm also a member of the Nebraska Chamber of Commerce and Industry and I'm a shareholder with the McGrath, North, Mullin and Kratz law firm in Omaha. LB491 was drafted by myself and my partner, Nick Niemann, with input from the Chambers and several of their members. We had a review with Senator von Gillern, gave us a good review of the Act's credits. And what it does is it incents companies, who do business in Nebraska, to conduct and promote research and development. And it does that by providing a refundable tax credit equal to a percentage of the company's research and development expenditures. In brief, LB491 does three things: it renews the program so companies can begin to claim R&D credits through 2033. Second, it removes the 21-year limitation on credits, which will encourage companies to keep and continue their research activities in Nebraska. And third, it clarifies the Act's requirements to E-Verify new Nebraska employees. And I'll take a second just to kind of, kind of, spend some more time on the E-Verify requirements. So currently, the act has a number of ambiguities regarding E-Verify, in particular, for the R&D credits. And the



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Department of Revenue has been interpreting the act to have really a one strike and you're out policy regarding E-Verify. If a company would fail to E-Verify even one employee within three days of hire, that company would lose all of its R&D credits for that tax year. And that's true even if the employee has really nothing at all to do with research and development. So we've seen the Department of Revenue issue notices of deficiency for hundreds of thousands of dollars, where one employee may not have been verified or may not have been verified just within the three-day period that the department has imposed. And that's true even though the company performed the research and development activities that the state wanted to incent and wanted to occur here. We've been approached then, as attorneys, to develop legal defenses and have developed a number of-- several legal defenses to the department's position. But we, frankly, don't think that's what the Legislature had intended for this program. We think this was an incentive program. And as Nebraskans, frankly, we'd rather see the law clarified to what we think was intended for this program from day one. Therefore, LB491 will modify the act to state that a company will not receive credits for the wages of any employee, a new Nebraska employee, that is engaged in research and development that is not E-Verified. The period for this would be-- to occur, would be lengthened to 90 days, which we think is a more reasonable period, that allows for companies and employees to correct any discrepancies that may arise under an E-Verify check and would allow for a longer period, only if that was otherwise allowed under the E-Verify program. In that respect, then, what we're trying to do is equalize the result with the other incentive programs. So the penalty for missing an employee would work like the other incentive programs, such as Nebraska Advantage Act or Nebraska Advantage Rural Development Act. In those programs, a company would lose incentives for each employee at a project that was not E-Verified. And this will match that as well. You would lose incentives, lose your, your credits, for employees who are engaged in research and development, new Nebraska employees, who are not E-Verified. So really, we're trying to equalize the result between this and the other incentive programs. We think this program is an outlier and it should be clarified, per change to the statute.

**LINEHAN:** Thank you. Are there questions from the committee? Yes, Senator Bostar.

**BOSTAR:** Thank you, Chair Linehan. Thank you, sir. Can you talk to me a little bit about why some of these firms are having trouble E-Verifying employees?

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**MATTHEW OTTEMANN:** Well, I think there's a number of firms who can come up and kind of, testify a bit more as to what may be saying. But I'd say that, oftentimes, three days is a pretty short period. A lot of times, you have HR people who may be out. Just a number of things can happen within a three-day period. And so, when you're hiring hundreds or thousands of people, sometimes, there can be one that doesn't get verified within a-- that very short three-day period-- three-business-day period.

**BOSTAR:** All right. Thank you.

**LINEHAN:** Thank you, Senator Bostar. Senator Kauth.

**KAUTH:** Thank you, Senator Linehan. So when they do E-Verify, why would they fail the E-Verify program? How does that trigger?

**MATTHEW OTTEMANN:** Sure. So I'm not an E-Verify expert, but I'll tell you what I know about the program. So it works through existing databases run by, I think, Department of Homeland Security and the Social Security Administration. And so, there can be a period if you're-- if we're seeing some kind of a, a check that would come up, your name would be flagged. The employee has a certain amount of time to, kind of, go through and try to clean up that discrepancy, if, if it seemed like there may have been some question as to whether they were eligible to work in Nebraska or, or not.

**KAUTH:** And you mentioned something about when you're going through hundreds or thousands of employees. Are thousands of employees being put through the E-Verify system from one company?

**MATTHEW OTTEMANN:** Well, I mean, we're hoping that Nebraska companies are, are hiring a number of employees. And we've certainly seen some of the larger, you know, employers, over a number of years, hire hundreds or, potentially, thousands of people, as they are growing.

**KAUTH:** And the, the way it stands now, if one person is flagged and fails, then it takes it from all?

**MATTHEW OTTEMANN:** It's not just one person's flagged and failed, it would be one person doesn't get run through the system, within just a couple of days of hire.

**KAUTH:** All right. Thank you.

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**LINEHAN:** Thank you, Senator Kauth. Are there other questions from the committee? I know you said this, but-- so under Imagine Nebraska, what is the situation with E-Verify?

**MATTHEW OTTEMANN:** Sure. So at, at that point, if we had someone who, maybe, the E-Verify wasn't done timely or wasn't done at all, we would lose incentives for that employee. In other words, we wouldn't get the compensation for hiring them, the compensation credit for hiring them. They wouldn't count in the number of new employees.

**LINEHAN:** So it's a huge difference.

**MATTHEW OTTEMANN:** So. Well, it can be a big difference there. That's right. And this is a one strike and you're out. Effectively, you lose all your credits for the whole year if you have one person, versus the other programs. You, kind of, lose the incentives you would get for that person, but you're not out kind of everything you've done for the, for the good of the state, which, we think, is a, is a real significant penalty that is probably not what the Legislature had-- was intending.

**LINEHAN:** OK. Thank you very much. Are there any other questions from the committee? Seeing none, thank you much.

**MATTHEW OTTEMANN:** Thank you.

**LINEHAN:** Good afternoon.

**DANIEL DUNCAN:** Good afternoon, Chair-- Chairwoman Linehan and members of the Revenue Committee. For the record, my name is Daniel Duncan, D-a-n-i-e-l D-u-n-c-a-n, and I am the soon-to-be retired executive director of the Nebraska Innovation Campus Development Corporation. And I'm appearing here today in an individual capacity in support of LB491. The views I am sharing are, are my own and do not reflect the official position of the University of Nebraska system or the University of Nebraska-Lincoln. I want to thank Senator von Gillern for introducing this R&D tax credit reauthorization proposal to assist our innovation economy. As someone who has worked extensively in fostering our state's innovation and entrepreneurial ecosystem through the work we do at Nebraska Innovation Campus, the R&D tax credit and LB491 is crucial to our ability to help encourage private sector companies to partner with universities or college-- colleges in conducting research. The 35 percent credit for R&D, done on a campus or facility owned by any university or college, is a tool that we have encouraged partners at Nebraska Innovation Campus to utilize,

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as they consider their business models and opportunities for growth through research and development. The importance of maintaining the state's R&D tax credit is also important for our overall economic development competitiveness. From my work with university research, parks and innovation districts across the country, states that prioritize incentives and programs geared towards the innovation space have seen their corporate and academic R&D increase significantly, along with high-paying jobs and careers in STEM fields. While I am transitioning toward retirement, I still care deeply about Nebraska's economic development and the work Nebraska Innovation Campus will do in the future to help position our state. By extending the R&D tax credit in LB491, I believe, I believe you will be fostering our innovation ecosystem, as we continue to explore new opportunities in ag tech, pharmaceuticals, drug research, artificial intelligence and robotics. Thank you again for your public service and I'd be happy to answer any questions.

**LINEHAN:** Thank you, sir. Are there any questions from the committee? Seeing none, thank you much. Are there other proponents?

**ROB OWEN:** Good afternoon, Chairperson Linehan, and members of the Revenue Committee. My name is Rob Owen, R-o-b O-w-e-n, and I'm the executive director of Bio Nebraska, a nonprofit trade association dedicated to supporting, promoting and growing the biosciences in Nebraska. Bio Nebraska has over 100 member organizations across the state, representing the human health, animal health, agriculture, renewable fuels and industrial biotech sectors. Bio Nebraska members also include service providers and academic institutions, including Southeast Community College, Metropolitan Community College and the University of Nebraska and its four campuses. I'm here today to provide Bio Nebraska's strong support for LB491, to renew the Nebraska Advantage Research and Development Act, and thank Senator von Gillern for his leadership on renewing the research and development tax credit. According to recent data, there are over 18,000 jobs in Nebraska associated with the biosciences, with many of those jobs closely tied to the agriculture sector. The average wage for these jobs: \$82,000. If you look at that and compare it to the average private sector job wages in Nebraska of \$54,000, we can see that the bio-- biosciences are providing high-quality, high-wage jobs. And as a state, we should continue to find ways to invest in and grow the biosciences. As you can imagine, research and development is at the very core of the biosciences. If a company is to exist, grow, succeed, research and development results must be successful. New products are essential. Unfortunately, research and development is not cheap and may not garner the desired results. In

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my previous position as general counsel at Streck, a medical device company located in La Vista, which is a world leader in hematology control products and specialized blood collection tubes, there were instances where the research and development team worked tirelessly for extended periods of time on projects. And in the end, the customer may decide not to move forward with that project, which is never good news. And more than likely, the time and money spent over that year or so, is likely wasted. While I don't have figures for private sector bioscience R&D spending in Nebraska, I do have figures for academic institutions. In fiscal year 2020, the most recent figures I have, Nebraska's academic institution spent \$414 million on bioscience R&D, which amounts to roughly 70 percent-- 76 percent of all academic R&D. And in there, biological and biomedical sciences had \$155 million, health sciences, \$128 million and agriculture, \$103 million, make up that 414. So that's a significant amount of resources dedicated to research and development and all essential to growing the biosciences in Nebraska. When I talk to Bio Nebraska members, the two biggest issues they are confronting are workforce shortages, which is not unique to bioscience, as we're all seeing that and finding capital to run their companies. With regard to capital, several years ago, Nebraska ranked 51st, behind Wyoming and Puerto Rico, in venture capital investments in the biosciences. 51st. Thanks to companies like Virtual Incision and Adjuvance Technologies, Nebraska now ranks in the mid-thirties. Just to put a dollar amount on that, in 2021, there was roughly \$55 million in bioscience venture capital investments in Nebraska. Now, it's not all bad news on the capital front. Nebraska does have a big advantage and that's the cost of doing business. Maybe a \$5 million investment into a bioscience company here could give that company a three-year runway to operate, where that same \$5 million may be 18 months in California or Boston. So that's the good news, but the bad news is they still need the funding and they need it here in Nebraska. Workforce, workforce issues cannot be solved overnight, but providing capital and resources while not easy, can be addressed, can be addressed quickly. Renewing the Nebraska Advantage Research and Development Act can go a long way to helping bioscience startups and established companies thrive in Nebraska. Not only does the R&D tax credit help with financial resources issues that exist, but also keeps Nebraska competitive with other states. Over 30 states, including Colorado, Iowa, Kansas and Minnesota offer research development tax credits. In fact, I believe Iowa's R&D tax credit is a straight, direct refund and does not offset other paid taxes. Not renewing the tax credit will certainly put Nebraska at a competitive disadvantage and most importantly, eliminate a financial resource for our companies that is

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much needed. If we want to keep bioscience companies in the state and attract companies to Nebraska, we need to be competitive in the issues that really count. We cannot let the R&D tax credit disappear. Again, bioscience jobs in Nebraska pay an average of \$82,000 a year. We should do all that we can to grow the Nebraska biosciences. With that, I will-- happy to answer any questions.

**LINEHAN:** Thank you. Mr. Owen. Are there any questions from the committee? Senator Briese.

**BRIESE:** Thank you, Chair Linehan. Thank you for your testimony here today. You said that you represent about 100 members?

**ROB OWEN:** Um-hum.

**BRIESE:** And how many of those members participate in the act?

**ROB OWEN:** That I am un-- I know when I worked at Streck, Streck did take advantage of the R&D tax credit through, through the state.

**BRIESE:** Do you know how many of the folks that participate in this get tripped up by the E-Verify requirements?

**ROB OWEN:** I do not. That is not in my bailiwick.

**BRIESE:** OK. Very good. Thank you.

**ROB OWEN:** Yeah.

**LINEHAN:** Thank you, Senator Briese. Are there any other questions from the committee? Seeing none, thank you very much.

**ROB OWEN:** Thank you.

**LINEHAN:** Other proponents? Good afternoon.

**MICHAEL BOYLE:** Good afternoon. Thank you for this opportunity to speak today. I'm Michael J. Boyle, M-i-c-h-a-e-l J. B-o-y-l-e. I'm president of Kawasaki Motors here in Lincoln and represent, also, the Nebraska Chamber of Commerce today. In Lincoln, we have three divisions in our Lincoln plant. The Consumer Products Division makes four-wheel off-road vehicles, such as utility vehicles, all-terrain vehicles and recreational vehicles and jet ski watercraft. Our Railcar Division makes subway and commuter rail cars for metropolitan transit authorities, typically on the east coast. Our Aerospace Division makes commercial aircraft structures for Boeing aircraft. We

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employ about 2,700 people in the Lincoln facility. In Lincoln, Kawasaki conducts R&D in two different ways. In our world, we have R&D engineers that develop, design and test new products on-site in Lincoln. And by the way, if any of you are-- have any spare time, we're looking for R&D test riders for our new products, so you can fill out an application at [kawasakiincoln.com](http://kawasakiincoln.com). In, in our world, new product is crucial in meeting rapidly changing customer demands. If we fail to develop new products, we will not survive as a company. Over the last several years, Kawasaki has been increasing new vehicle development to gain our mark-- to gain market share. By doing so, we've increased production and sales. And also, by doing that, we've increased employment in our Lincoln plant. Every new vehicle that we introduce requires tens of millions of dollars in new production tooling and equipment. Because we cannot make all parts ourselves, internally, we have over 100-- 1,000 U.S. business partners that supply us, our plant, parts and materials. Many are located within Nebraska. When we introduce new products and increase production, our plant and our 1,000 business partners must invest in additional equipment and manpower. The money we invest in product R&D pays for itself many times over. Our other R&D activities are related to designing and building new production processes, including automation. Kawasaki employs mechanical engineers and software developers to design and build the equipment and processes that manufacture our products. We compete with companies around the world, as do many manufacturers in Nebraska. In order to compete with lower wage countries, we must build products as efficiently as possible, which means adding automation. Automation has a second benefit in helping overcome the workforce shortages that a lot of us are seeing. Our company continues to develop new, more complex production systems to continually improve our competitiveness. Installing automation requires higher employee skills to operate and maintain, and maintain them. We provide our teammates with training necessary to run the automation, increase their skills, responsibility and wages. The investment in process R&D increases Kawasaki's revenue and raises the living standards of our staff. The proposed change to E-Verify requirements is very welcome. We frequently transfer Japanese staff to Lincoln. The Japanese staff are very important for conducting the transfer of technology from overseas Kawasaki companies to Lincoln and from Lincoln to our overseas global Kawasaki entities. This global sharing of technology is crucial, Is crucial to our operations. With the current employment processes for foreigners, it's very difficult to meet the current, timely, E-Verify reporting criteria. One misstep, as you've heard earlier, with the current E-Verify process can disqualify Kawasaki's R&D submissions. The new

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90-day requirement will really help our situation. Kawasaki fully supports LB491. Without R&D, our plant could not survive. In our opinion, R&D investment generates substantially higher levels of revenue, R&D increases employee opportunity for skills growth and to raise their standard of living and R&D is necessary for a vital economy and leads to a better world. Thank you and I entertain any questions.

**LINEHAN:** Thank you very much. Are there questions from the committee? I have one.

**MICHAEL BOYLE:** Sure.

**LINEHAN:** How does E-Verify work with somebody who is from Japan?

**MICHAEL BOYLE:** We still have to go through the E-Verify process because they become an employee of, of our Lincoln facility. So the, the international requirements take a little additional time and effort, so the three days is really, really difficult for us to get that done.

**LINEHAN:** And if they're an employee in Lincoln, they pay Nebraska income tax?

**MICHAEL BOYLE:** Yes.

**LINEHAN:** Thank you. Senator Albrecht.

**ALBRECHT:** Thank you, Chair Linehan. Have you been penalized for the E-Verify?

**MICHAEL BOYLE:** No, it's, it's, it's been close.

**ALBRECHT:** OK. Very good. Thank you.

**MICHAEL BOYLE:** Yeah, but--

**ALBRECHT:** Just checking.

**MICHAEL BOYLE:** We've been nervous a couple of times. Yeah.

**ALBRECHT:** OK. Thank you.

**LINEHAN:** Thank you, Senator Albrecht. Any other questions? Senator Kauth.



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**KAUTH:** How much do you get per year in the tax credits? What is-- what does that amount look like for you?

**MICHAEL BOYLE:** For us, in fiscal '21, which ended in March of 2022, we, we earned-- we, we earned credits for \$26 million worth of R&D. What that meant was a, a tax credit from Nebraska, about \$54,000.

**LINEHAN:** Are there any questions? I'm sorry. Was that it, Senator Kauth?

**KAUTH:** No. Yes, that is. Thank you.

**LINEHAN:** Thank you, Senator Kauth. Senator Albrecht.

**ALBRECHT:** Just one more question. How do I fill out a [INAUDIBLE] [LAUGHTER] test.com.

**MICHAEL BOYLE:** Kowasakilincoln.com. Come on down.

**LINEHAN:** Thank you, Senator Albrecht. Field trip I see coming.

**ALBRECHT:** That's right.

**LINEHAN:** Senator Bostar.

**BOSTAR:** Thank you, Chair Linehan. Thank you, sir. Just-- you talked about your employees coming over from Japan to, to work here in Nebraska. When they do that, approximately how long do they stay?

**MICHAEL BOYLE:** Anywhere from 3 to 5 years.

**BOSTAR:** Great. Thank you.

**LINEHAN:** Thank you, Senator Bostar. Any other questions? Thank you.

**MICHAEL BOYLE:** Thank you.

**LINEHAN:** Are there other proponents? Are there any other proponents? Are there any opponents? Is there anyone wanting to testify in the neutral position? Senator von Gillern, would you like to close?

**von GILLERN:** Thank you to those who testified and added some, some real life stories to, to what we're trying to do here. Sometimes we get hung up in the numbers and the legalese about it. But this is really about jobs and it's about-- and I kind of drew a little linear graph on, on my piece of paper here. It's about some, some high-paying, some, some well-paid jobs, engineers and bioscience, but

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it's also about trade jobs, because this, this, this is a tax credit that's used by, by, as was spoken by Mr. Boyle, by, by Kawasaki. They employ a lot of good trade, blue collar workers. We're talking about companies, it was mentioned already-- we're mentioned, Chief and Lindsay and companies like Valmont and Behlen, they employ hundreds and, and thousands of Nebraska citizens. So they contribute strongly to, to our tax base and, and they're healthy for our economy. I do want to speak-- and, and I was grateful for the comments about E-Verify. E-Verify is really a-- is a, a little bit of a cleanup issue, with regards to the primary purpose of, of what we're trying to get done here today. I think the original, the original language around E-Verify was unintentionally punitive. It was obviously put in the, put in the regulations to encourage E-Verify to happen and E-Verify is happening, but, but the fact that it was not happening within what turns out to be a very constrictive time frame turned out to be more punitive. And, and, and I did, in talking with a few folks this morning, I did learn of a couple of stories worth thousands and thousands of dollars of tax credits were surrendered because, because it was found, a file or two, that-- where the E-Verify was not done within the three-day period. And again, we're not talking about people that failed E-Verify. We're not talking about highly hiring people that are here illegally. We're talking about any one of us that might have been hired, but the E-Verify process was not followed within-- or was not completed within that 3-day time period. So, again, no malintent by the part of the, of the employers in that-- in any way. We just needed a little bit more reasonable time frame for them to complete that important factor. So with that, any-- I'd be happy to take any questions.

**LINEHAN:** Thank you, Senator von Gillern. Are there any questions from the committee? Seeing none, thank you very much.

**von GILLERN:** Thank you.

**LINEHAN:** Oh, I'm sorry. We did have two proponent letters from Nicole Fox [PHONETIC] and Josh Borowski [PHONETIC]. With that, we'll close the hearing on LB491. With that, we'll open the hearing on LB173. Good afternoon.

**BOSTAR:** Good afternoon, Chair Linehan, and fellow members of the Revenue Committee. For the record, I'm Eliot Bostar, that's E-l-i-o-t B-o-s-t-a-r, and I represent Legislative District 29, here to present LB173, legislation to provide clarification and guidance to businesses as to when out-of-state employee and associate income is or is not taxable in Nebraska. Current state statute 77-2733(8),

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identifies which business activities constitute income of a nonresident individual, derived from sources within the state. In recent years, the Nebraska Department of Revenue has begun to interpret this statute more broadly and is attempting to collect state income tax from individuals who reside out of state but who have worked in our state for as little as a portion of one day in a tax year. This broader interpretation of the taxation guidance disincentivizes businesses from looking to hold events or do business here in Nebraska, resulting in decreased economic, economic activity in our state. LB173 provides a 30-day exemption from this requirement for nonresident employees who also perform employment duties in other states. If an employee's service in Nebraska exceeds 30 days, the entirety of the time that they were in the state, including the 30-day exemption period, would be taxable and subject to withholding. LB173 specifically excludes individuals who are entertainers, professional athletes or public figures, defined as a person of prominence who performs services at discrete events, including but not limited to speeches and public appearances for compensation on a per event basis. Public figure specifically does not include a member of a business's board of directors or similar governing body. Any person earning income in an excluded profession would continue to be taxed for work performed in Nebraska, even if only for a single day. In the case of a person who performs duties in more than one state on a given day, compensation would be taxable, if the hours in Nebraska were more than in any other applicable state. This applies in the case of those who exceed the 30-day threshold outlined in the bill and in the case of those specifically excluded individuals. There is also a provision which stipulates that the time a person is in transit, while driving, sitting on a train or waiting for baggage at the airport, for example, would not be counted as performing duties in the state. The legislation also includes an adjustment to time and attendance tracking requirements. In order to ease the burden on employees, employers and the Department of Revenue, under LB173, an employer who makes a good faith effort, specifically defined in this legislation, to maintain accurate time and attendance records designed to allocate employee wages for income tax purposes and relies on that data for income tax purposes, shall not be required to make payment of any penalties or interest otherwise applicable for failing to deduct and withhold income taxes. These changes are to avoid replacing one burdensome requirement with another, particularly for a Nebraska-based employer with many employees in multiple states. This is a necessary change so that our state does not inadvertently discourage economic investment and activity through overregulation and so that those looking to invest in Nebraska have clear guidance

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regarding when employees will and will not be subject to taxation and filing requirements. I would encourage you to support and advance LB173. I thank you for your time and consideration and I'd be happy to answer any questions you might have.

**LINEHAN:** Thank you very much. Are there questions from the committee? Yes. Senator von Gillern.

**von GILLERN:** Senator Bostar, can you help me? I'm looking on the fiscal note. I'm not finding the math to arrive at the number that-- that's on the fiscal note. Can you help me with that?

**BOSTAR:** Well, I appreciate--

**von GILLERN:** Or would you like an invitation to explain that?

**BOSTAR:** Thank you, Senator von Gillern. It is my, my distinct privilege to talk about the fiscal note. There, there actually-- there will be testifiers behind me who will go into more detail about why it is generally understood that this fiscal note is extravagantly high. But the takeaway that I would like you to, to take from me is that it is extravagantly high and, and unnecessarily so. If you look on the-- well, like the third page of the fiscal note, which is labeled at the top as LB0173, page two. That third paragraph down they, they talk about their methodology. So Department of Revenue assumes 25 percent of nonresident tax withholding net of entertainers and public figures as revenue forgone as a result of LB173. DOR estimate-- estimated the withholding amount from entertainers and public figures are approximately 2 percent of total nonresident withholding. With that assumption, the estimated reduction in General Fund revenues is as follows. So that is a, I think, a critically simplistic approach to take for trying to determine the sort of fiscal impact that LB173 would have. This-- and, and again, the folks behind me will have far more comprehensive information about this. But it is my understanding, actually, from conversations that, at one point, I think the Congressional Budget Office estimated what this legislation would look like for the entire country and they came to a figure of \$100 million. So our Fiscal Office is saying that, for Nebraska, it's \$50 million. It, it, it's unreasonable to imagine, as entertaining as it might be, that Nebraska would constitute 50 percent of the nation's expenditure for a universalized approach, in this, in this legislation.

**von GILLERN:** Thank you.

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**BOSTAR:** You're welcome.

**LINEHAN:** Thank you, Senator von Gillern. Are there other questions from the committee? So this would be less than 30 days. It could be different times, too, though. Right? It would, it would be a total.

**BOSTAR:** It's, it's within a tax year. So.

**LINEHAN:** It's within a tax year.

**BOSTAR:** Yes.

**LINEHAN:** So if they were here for three weeks and then later on, another three weeks, that goes over the 30 days.

**BOSTAR:** Correct.

**LINEHAN:** OK. All right. That's helpful. Any other questions?

**BOSTAR:** So you couldn't just, you know, come here six days a week every, every week. And then, you know, so.

**LINEHAN:** Well, here, here's a concern that's a little cloud above my head.

**BOSTAR:** Yeah.

**LINEHAN:** [INAUDIBLE] but what if I actually work for-- I won't-- ABC Corporation in Omaha, Nebraska. But I only come in like one day a week, but I go home to Iowa and I work on my computer.

**BOSTAR:** One-- well, if you came in one day a week, you would go over the 30 days, so you wouldn't fall within any sort of exemption.

**LINEHAN:** OK.

**BOSTAR:** But if you--

**LINEHAN:** That's that one concern I have about this bill. We have to figure out that-- when--

**BOSTAR:** Sure.

**LINEHAN:** --people can live in Florida.

**BOSTAR:** Yes.

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**LINEHAN:** Where they have no income tax.

**BOSTAR:** That's true.

**LINEHAN:** Thank you.

**BOSTAR:** Thank you.

**LINEHAN:** Are there any proponents? I'm sorry. Proponents.

**SUSAN LEWIS:** Hello. Good afternoon, Chair Linehan, members of the Revenue Committee. My name is Susan Lewis, S-u-s-a-n L-e-w-i-s. I am senior associate general counsel at Mutual of Omaha, but let me begin by stating that I'm not a tax lawyer. I provide legal support to human resources at Mutual. I'm here today to testify on behalf of Mutual, the Greater Omaha Chamber of Commerce, the Lincoln Chamber of Commerce, the Nebraska Chamber of Commerce and the Nebraska Insurance Federation. As noted by Senator Bostar, LB173, seeks to address the issue of taxation requirements for employees who live in other states. This bill would better align Nebraska's income tax rules with the realities faced by the businesses of all sizes. Mutual of Omaha is deeply invested in drawing our workforce to Nebraska. We are demonstrating this with our expansive new headquarters project, planned for the heart of downtown Omaha. However, as a Fortune 500 company doing business nationwide, we must acknowledge, especially in the remote post-pandemic era, that some of our 7,000 employees are not Nebraska residents. Without employing some nonresident workers, Mutual of Omaha could not continue to compete and grow in the current business environment. We do not seek legislative solutions that would incentivize companies to hire workers from other states. And as one of Nebraska's largest employers, almost two-thirds of our employees reside in the Omaha metropolitan area. LB173 simply acknowledges that the modern workforce is more mobile than it was five years ago and includes employees who might travel and work in other states. Currently, the Department of Revenue requires withholding and payment of income taxes by nonresident employees, even if these nonresident employees work in Nebraska for only a portion of one day in a tax year. This makes it challenging for companies to bring in nonresident employees for meetings, training and conferences. In fact, one of Mutual of Omaha's business divisions purposely hosts conferences in states that do not have a day-one withholding requirement. Mutual of Omaha desires not only to bring those conferences and events to our home state, but also to bring all of our remote employees to visit the home office in the future. Will our employees want to come, knowing that they now must file a nonresident tax return? We're

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afraid they won't. This bill simplifies tax withholding for employees working for Nebraska companies and makes it easier for nonresident remote workers to do business in this state. Passing this bill will make it more attractive for businesses outside of Nebraska to plan conferences that will lead to increased tax revenue, not to mention additional revenue for a variety of Nebraska businesses. The state benefits from laws favorable to Nebraska employers' nonresident employees and mobile workforces. We live and work in an interconnected mobile economy. The modern workforce isn't stationary. Nebraska is currently one of the most unfriendly states to mobile workers and their employers. Nebraska can continue its hard line on this, but employers and employees are going to avoid working in our state or even stepping into the state if we continue to tax like this. Bills like LB173 help us continue to make Nebraska the most attractive place to live and work. For these reasons, we would ask the committee for support and advancement of LB173. Again, my responsibilities at Mutual are human resources are not tax, but I'm happy to respond to any questions that you may have.

**LINEHAN:** Thank you. Are there questions from the committee? Has, has this been a long-term problem or is this something that-- it was a regulation change in Department of Revenue?

**SUSAN LEWIS:** No. It's been a long-term problem.

**LINEHAN:** All right. Thank you. Any other questions? Seeing none, thank you very much.

**SUSAN LEWIS:** Thank you.

**LINEHAN:** Other proponents. Good afternoon.

**JOHN OLIVER:** Good afternoon. Thank you, Senator Lou Ann Linehan and members of the committee. We appreciate Senator Bostar's bringing this to the committee for your consideration. I am John Oliver, J-o-h-n O-l-i-v-e-r. I am vice president of enterprise applications for Interpublic Group of Companies. I'm here to provide commentary on LB173. Headquartered in New York City, Interpublic Group is a global provider of marketing solutions, with approximately 54,600 employees in all major world markets. Our company specializes in advertising, digital marketing, communications planning, media, public relations, and specialty marketing. You may have seen some of our work recently on the Super Bowl, for clients like Chevrolet, Verizon, E-Trade, and Budweiser. IPG's North American Shared Services Financial Center is located in Omaha at Belmont Plaza, where critical work to support our

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business and our clients takes place. Our global data center, with nearly 1,000 virtual and physical servers, is hosted at the Scott Technology Center, and locally, we employ approximately 470 employees, interns and contractors. At IPG, our people are the heart and soul of our company and want to be a part of a company with a strong culture and unique value proposition that aligns with their own. The excellence of our people continues to drive our success and the significant changes taking place in our industry and the environment in which we operate. Encouraging collaboration between employees is a key part of our strategy to attract and retain talent. Because of the COVID pandemic and the advent of hybrid work environments, companies are now reviewing state laws and payroll taxation to ensure compliance. This review has raised an awareness of the day one payroll tax policy in Nebraska. Going forward, this policy will likely discourage out-of-state employees from visiting our operations here in Nebraska, due to the requirement to file payroll taxes in the state after short, infrequent visits. These visits encourage collaboration between employees and allow leaders from other parts of the country and the world to work hand-in-hand with our local management team. These visits allow us to highlight the operations we currently have in Omaha and provide opportunity to deploy additional resources locally. For example, we have been considering hosting an IT management conference in Omaha, which would attract over 90 of our top managers from around the world. This type of event also benefits our local economy. When we host this type of conference, we fly into the Omaha airport, stay at local hotels, frequent local restaurants and partake in local entertainment as part of the conference. Unfortunately, without a change in the regulations, it is unlikely we would host this event in Omaha. Instead, this event would more likely be hosted at another one of our locations, where local tax regulations accommodate a two-week window or more for visitors. I also serve on the Omaha Chamber's Information Technology Advisory Committee. In the past, we have leveraged events like the College World Series to encourage visits by site selection consultants and others influential in attracting outside investment in Nebraska. This bill will help ensure we're able to continue to attract these visitors going forward. Thank you and I'd be willing to answer any questions you might have.

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

**JOHN OLIVER:** Thank you.



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**LINEHAN:** Are there other, other proponents? Any other proponents? Are there any opponent? Oh, OK.

**NICOLE FOX:** Senator Linehan, members of the Revenue Committee. My name is Nicole Fox, N-i-c-o-l-e F-o-x, representing the Platte Institute and we support LB173, which would improve Nebraska's treatment of nonresident income. In today's economy, it is not uncommon for workers to find themselves working in a state for which they are not a resident for a short period of time. Under current law, Nebraska is one of the most aggressive states for taxation of nonresident income. This increases the compliance burden for both businesses and workers that might have a limited intersection with the state and it increases the likelihood of double taxation. Ultimately, it makes Nebraska less friendly for business. For example, under current law, Nebraska has no filing threshold for nonresidents. That means nonresidents are liable for Nebraska income tax if they spend a single day in the state. Other states have thresholds based upon the number of days spent in a state or the amount of income earned while in the state. The compliance burden for withholding taxes and filing a tax return based upon a limited time spent in Nebraska is outsized relative to the tax revenues that would be raised. Nebraska is less attractive for businesses and remote workers with such aggressive rules. Today, it is especially important to have tax-- friendly tax rules related to nonresident income, given the significant increase in remote work, along with a gradual return to pre-pandemic patterns of domestic business travel. LB173 would make helpful changes to how Nebraska treats nonresident income and businesses that pay income to nonresidents. First, the bill would establish a filing threshold of 30 days for nonresident individuals who perform employment duties in more than one state during the year. That means that taxpayers will not be liable for paying taxes if the taxpayer spends less than 30 days in Nebraska. Similarly, the bill creates a withholding threshold for employers. Businesses are not required to withhold Nebraska income taxes until employee exceeds the filing, the filing threshold of 30 days. Once the taxpayer exceeds the 30-day threshold, taxes will be owed and must be withheld for the entirety of the taxpayer's stay in Nebraska. It makes sense to provide a meaningful filing and withholding threshold and it also makes sense to apply taxation to the entire portion of taxpayer income earned while in Nebraska, in the case that the threshold is exceeded. LB173 would also ensure that days are not counted towards Nebraska tax liability if the majority of the day is spent in another state. Professional athletes, performers and public figures would still owe taxes for income derived while in Nebraska. States commonly

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apply different rules to such high-paid employees. However, LB173 clarifies that public figures do not include a member of a business's board of directors or other governing, governing body. It would disincentivize businesses from locating their headquarters and holding their meetings in Nebraska if their out-of-state board members were taxed for coming to Nebraska for board meetings. These changes have always made sense and they are particularly sensible and reasonable, as remote work becomes permanent for some employees. And for those reasons, we support LB173 and this change to the tax code.

**LINEHAN:** Thank you. Are there questions from the committee? Seeing none, thank you very much. Are there other proponents? Are there any other proponents? Are there any opponents? OK. guys. Hustle here.

**BRYAN SLONE:** Sorry. First time.

**LINEHAN:** Yeah. First time. Right.

**BRYAN SLONE:** My apologies. And I do not have any written testimony today. I don't have any written testimony for this one. I just wanted-- my name is Bryan Slone, B-r-y-a-n S-l-o-n-e. I'm president of the Nebraska Chamber of Commerce. I've been asked to testify on this, as well, in terms of the, the burden that this places on, on companies in Nebraska and particularly, headquartered companies in Nebraska. The inability to bring your board of directors to this state without having tax consequences is really difficult. Headquarters are, are very important to our state, in terms of the employees that they bring. That's not only in Omaha, but that's in, in communities across the state. It's also very important to our, our hotel, our, our hospitality industry, to be able to bring conventions and meetings to the state. In fact, there's many I'd like to host in Nebraska, among the Chamber community. And the aggressive tact of, of potentially taxing anybody who wanders into this state for a business reason for even a single day is, is one of the most difficult standards within the United States and is not helping us, in terms of either our reputation for a business-friendly state or for, frankly, building our businesses in this state. So on behalf of the Nebraska Chamber, I would, I would reiterate our support for this legislation.

**LINEHAN:** Thank you very much, Mr. Slone. Are there questions from the committee? So if ABC Corporation, Omaha, they bring in employees for a week, do they have to do a W2?

**BRYAN SLONE:** Potentially. Potentially.

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**LINEHAN:** But they're all clearly not doing that.

**BRYAN SLONE:** I would not say that they're not all clearly not doing that. This issue and, I think, a pre-- prior testifier mentioned this, this is something that because not only Nebraska, but this is, this is familiar territory for, let's say, California, which is trying to tax everything that moves within that state. There's much more focus among employers now, in terms of, of how this is taxed and COVID, actually, created this. We had our own discussions, in Nebraska, with the Department of Revenue, how are we going to deal with, now, employees who work everywhere all the time. And so, getting a clear set of rules, I believe I testified on this before, on a, on a very similar bill, having a clear set of rules is really important for the employers. They can, they can, they can apply a clear set of rules. What they really have trouble with is a subjective standard, that you don't know when, when, when you cross that line or not.

**LINEHAN:** OK. Thank you. Are there other questions? Seeing none, thank you very much.

**BRYAN SLONE:** Thank you very much.

**LINEHAN:** Are there any other proponents? Are there any opponents? Is anyone wanting to testify in the neutral position? Good afternoon.

**JOE BISHOP-HENCHMAN:** Good afternoon, Chair Linehan, Vice Chair von Gillern, and members of the committee. My name is Joe Bishop-Henchman, J-o-e B-i-s-h-o-p-H-e-n-c-h-m-a-n, and I'm executive vice president of the National Taxpayers Union Foundation, which is a tax and government spending research organization, based in Washington, D.C. And it's wonderful to be in Lincoln again and meet some of the new faces on the committee. I'm going to regret saying this on the record, but by being here today, technically, I must file a Nebraska tax return next year. And more than that and this goes to the-- a question you just asked, Madam Chair. My employer, before today, should have set up withholding with the Nebraska Department of Revenue for my one day here, so that I can remit tax on 1/365 of my income to Nebraska and then credit it against my District of Columbia income tax when I file next April. It's a lot of paperwork and a lot of back and forth to, to net out to not very much. I'm joined today by my colleague Andrew Wilford, who's the author of a new ranking report we have just produced. And I've provided copies for the record and I'll let him talk a little bit more about what that study analyzed and why it found Nebraska to be second worst in the country

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on its tax treatment of remote and mobile workers and how that-- how policies, such as the one you're considering, would be a dramatic improvement from that-- from the status quo. I did want to note two things, just to address some questions that have already come up on the bill. One is, with no disrespect to Senator Bostar, the language in this bill is not from him. The language is drawn from model legislation at the federal level. That's been discussed at great length from the federal Mobile Workforce Bill, both in its treatment of athletes, entertainers and public figures, as well as the 30-day threshold, which is viewed as, as the gold standard. Everybody knows what 30 days is and can keep track of that. The second point I wanted to note is on the fiscal note. And I do want to acknowledge that this is hard to calculate because there isn't data on, on who's here however many days. I'm glad Nebraska Department of Revenue is not keeping track of how many days everyone is here yet. You know, they just know if somebody is a nonresident or if they're a resident. So it's a bit of guesswork to determine what is the, the revenue loss that may be associated with this. I did want to note a couple of, of data points that may point in a different direction. And I'll provide all these sources for the record or for the Fiscal Office or, or whatever the committee may suggest on this. Obviously, there was the hearing that was held on Senator Kauth's bill, last week, on convenience of the employer, which is a-- not identical, but similar attempt to solve the same problem. And the fiscal note on that one was just under \$6 million. And it's, it's kind of hard to understand why there would be dramatic differences and approaches in those two approaches. In New York, in 2014, they had a similar 30-day threshold bill and New York analyzed the fiscal cost of that and New York, New York state Department of Revenue, much to the chagrin of people who visit New York, does keep track of how many days people are in the state, so they're able to come up with a more sophisticated estimate. And their estimate was it would cost the state \$106 million a year to adopt a 30-- 30-day threshold. So kind of whatever proportion you want to do, Nebraska to New York, I think you would apply the same thing here, on whatever that may be. Senator Bostar did mention the Congressional Budget Office estimated a nationwide effect of between \$55 (million) and \$100 million, and then they kind of came to a consensus agreement of \$78 million. And that was in 2017, which escalated today, would be about \$96 million. And then Arkansas, which passed a similar piece of legislation, estimated the fiscal impact as indeterminate, but no more than \$22 million. And again, you'd want to evaluate, kind of, how you compare Arkansas-- how many Arkansas equal a Nebraska. But overall, I think it's very, very high. With that, I'm happy to answer any questions, but I do want to acknowledge that my

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colleague will be testifying after me, talking more about the general policy.

**LINEHAN:** Thank you very much. Are there any questions from the committee? Thank you.

**JOE BISHOP-HENCHMAN:** Thank you.

**ANDREW WILFORD:** Good afternoon, Chair Linehan, and the rest of the ranking committee-- or Revenue Committee. My name is Andrew Wilford, A-n-d-r-e-w W-i-l-f-o-r-d. As my colleague mentioned, I am the author of the ROAM Index, which is an acronym, which stands for the Remote Obligations and Mobility Index. In spite of that fact and despite what my colleague mentioned before, I want to state for the record that I am-- I was and remain completely unaware that I am supposed to file a Nebraska tax return. The ROAM Index is an attempt to measure the tax obligations that individuals and businesses face,, as a result of remote work and how states', how states' tax policies affect that. Unfortunately, Nebraska does not score well on the ROAM Index. Nebraska is currently ranked as the second-to-worst state, so 49th out of 50. That's, in large part, due to filing and withholding thresholds, which make up more than half of the overall score under the ROAM Index. If Nebraska were to institute A 30-day filing and withholding thresholds, filing being individual file-- individual income tax filing obligations, withholding being employers. If Nebraska were to institute that, as well as pass similar legislation that I know has been discussed about eliminating the convenience of the employer rule that Nebraska has, Nebraska would become the second-highest scoring state with an individual income tax. So, you know, I think that this is really an opportunity for Nebraska. I think that Nebraska can turn around its, its score very, very quickly. And I would like to thank the, thank the committee and I would be happy to answer your-- any questions.

**LINEHAN:** Thank you very much. Are there any questions from the committee? Seeing none, thank you very much for being here. Appreciate it. Are there any other neutral testifiers? We did have two letters for the record, both proponents. Senator Bostar, would you like to close?

**BOSTAR:** Thank you, Chairman Linehan and fellow members of the committee. For those of you who were on the committee last year, this bill is similar to the one that was, was brought last year. I handed out this article last year. So the article is from 2022, but it's, it's from the New York Times. That got cut off there, but it's fun

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because it's, you know, one of the times that The New York Times mentions Nebraska and it's, it's appropriately positive. And so with that, you know, I think that, as was stated before, there, there is a real opportunity here to, to fix this problem. And, and it is a real problem. And, you know, I think the fact that we can-- that we are joking about the reality that exists, which is that, you know, sort of everyone that comes before us, if they come in just to testify as an expert on something here in our committee, they fly in for the day. Technically, yes. They, they should be filing a, a tax return in the state of Nebraska. They should be paying taxes in the state of Nebraska and their employer should be withholding it. That, I don't believe, engenders the kind of positive economic environment that we would like our state to, to be known for. And so, we obviously need to do a lot of work on the fiscal note here. But I would encourage the committee's support for this. I'd be happy to answer any final questions.

**LINEHAN:** Thank you, Senator Bostar. Are there any questions? On the fiscal note, I'm sitting here and I would-- that's all of us, running constantly and never getting any time to think. But is this-- are they saying that 25 percent of nonresident tax withholding [INAUDIBLE]? So they're saying that this is 25 percent of the nonresident income? That's what I'm trying to--

**BOSTAR:** Yes.

**LINEHAN:** --OK. Twenty-five percent. So if I'm-- I think I'm correct on this. It just-- to go back to the Fiscal Office. If I own property in Nebraska and I make money on that property, I have to pay non-- and I live in Florida, I pay nonresident income tax. Trust me, I [INAUDIBLE].

**BOSTAR:** Yes.

**LINEHAN:** So I-- there's-- we have a lot of absentee agricultural--

**BOSTAR:** Yes.

**LINEHAN:** --landowners that are getting rent checks.

**BOSTAR:** But that would still be taxed.

**LINEHAN:** Yeah, but it would be nonresident income, wouldn't it? I'm not a resident.

**KAUTH:** But they're not doing the work.

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**LINEHAN:** Right, but they're not resident. That's why, I think, maybe, talk to Fiscal Office. If DO-- Department of Revenue's just taking all nonresident income, which--

**BOSTAR:** So you're saying for the way that they calculated this.

**LINEHAN:** Right. They can't--

**BOSTAR:** Are they taking-- yeah, I understand where you're-- yeah. I, I-- and I don't know the answer to the question about what-- what's in this bucket that they're pulling from.

**LINEHAN:** Correct. Because it's all rental properties, commercial, residential-- and you live someplace else. You still have to pay income taxes on it.

**BOSTAR:** Yep.

**LINEHAN:** In Nebraska. OK. Any other questions? All right, that brings our hearing on LB173 to a close.

**BOSTAR:** Thank you.

**von GILLERN:** OK. Then we will open up testimony on LB689 and welcome Senator Linehan.

**LINEHAN:** Good afternoon. Thank you, Senator von Gillern and committee, I'm Lou Ann Linehan. I represent Legislative District 39. My name is L-o-u A-n-n L-i-n-e-h-a-n. I'm here today to introduce LB689, which amends sections of the Nebraska Property Tax Incentive Act regarding community college tax credits. The way it presently works, the Department of Revenue is charged with setting a credit percentage that is then multiplied by the taxpayer's community college taxes paid to determine the credit the taxpayer is allowed to take. Current statute restricts the department in calculating the credit percentage by having a program cap. Presently, there's an escalator as 50-- there's an escalator of \$50 million for 2022, \$100 million for 2023, and \$125 million for 2024, and \$150 million for 2025. So that's already in the budget, because we passed that. LB689 changes statute to direct the department to stop using percentage and allow the community college tax credit to be 100 percent of community college taxes paid by the taxpayer. This bill is just another step in the efforts of the Legislature to-- has taken to bring tax relief to Nebraskans. I ask you to support LB727 [SIC - LB689] and AM361 [SIC]. Thank you and I'd be happy to answer your questions. Do I have AM361?

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**von GILLERN:** You beat me to the question.

**LINEHAN:** OK. Anyway, so I'm sure it's technical. This is a pretty simple bill, where the state's going to pick up 100 percent of whatever property taxpayers pay into the community colleges in their property tax. And we headed that direction last year, so this would just get us to 100 percent quicker.

**von GILLERN:** Thank you. Any questions from the committee? Seeing none, thank you, Senator Linehan. Proponent testimony, please.

**RANDY SCHMAILZL:** Good afternoon, committee. Randy Schmailzl, R-a-n-d-y S-c-h-m-a-i-l-z-l, president, Metropolitan Community College in Omaha, Nebraska. I'm here today in support for the Metro Community College of LB689. Based on the increasing of the level of support and the continuing of the support, last year was the very first year that community colleges participated in the tax credit. Before that, K-12 participated. It was well received by the taxpayers, the community college. Metro, and I'm sure the other community colleges and our businesses in Omaha. And one of the ways we figured that out was through the truth in taxation postcard process that we went through. And college received a number of phone calls, well over 100 phone calls, that wanted to talk to us about this postcard. And we made sure, I personally made sure, that we called everybody back, talked to them and we actually made quite a few friends in that process because we're able to talk about this tax credit and actually send them information on how, although you're paying your taxes, you get this tax credit. And what we did find out is many of our citizens in the poorer county really don't participate much in property tax credits. They're residence owners, so they're not business owners or farmers or others. And so, they really needed to be coached up a little bit on, on how this would work. And so, very pleased with the website we put up for our citizens that talks about this and I'm very pleased with the Nebraska Department of Revenue property tax lookup tool that's in place. So when you plug in your parcel of your property, up comes not only your local school K-12 tax, but the community college tax. So if you're not applying for your community college tax credit, it's because you're not applying for your K-12 tax credit, also. So that tied together really made it a nice package. This, this checks many of the boxes for our local constituents in the four counties. Not often do we have property tax relief that is a substitution of state tax for our local tax. Our four counties pay a significant amount of the state's sales and income tax, so any time there can be a tax credit that lowers that and gives back to our local constituency, that is really a good



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thing. So congratulations on the Legislature for, for pulling that together last year. It keeps in place our general fund and our capital fund concept that the college. And our general fund is the money we use to run the college, for salaries and that. And our capital fund is the money that we utilize from property tax to-- for the upkeep of Metro Community College. And we have some of the longest standing buildings in the state. It's called Fort Omaha. The buildings are anywhere from 140 years old to 100 years old. And we bought them for a dollar, I guess and that-- I'm sure we paid too much, because there's a lot of upkeep, but it's a beautiful facility. It also sets in place the backstop for the safety net on state funding and on continuation for the college. If, for some reason, the state could not fill-- fulfill their commitment and had to lower it, that just-- we still have the other property tax to fall back on. So this is one of many tax credits in the state of Nebraska. And like I said, not, not always, is the citizens of the four-county area in, in the Omaha area, knowledgeable about tax credit. So with that, I'm going to stop and it's pretty simple, support for this.

**von GILLERN:** Thank you for your testimony. Any questions from the committee? Seeing none, Mr. Schmailzl, thanks for being here today. Any other proponents?

**BRUCE RIEKER:** Good afternoon. My name is Bruce Rieker. It's B-r-u-c-e R-i-e-k-e-r. I'm the senior director of Legislative Affairs at Nebraska Farm Bureau. In addition to Farm Bureau, I'm also here on behalf of the Nebraska Corn Growers Association, Nebraska Pork Producers Association and the Nebraska Soybean Association. My testimony is just going to be about as clear and concise as the bill is itself is-- it's very straightforward and we are supportive of this. The taxpayer knows exactly what they're getting. It is probably one of the cleanest ways that we know to get dollar for dollar tax relief made by the state. And for those reasons, we support this. If you have any questions, I'll try and answer them.

**von GILLERN:** Any questions from the committee? Seeing none, thank you for being here, Mr. Rieker.

**BRUCE RIEKER:** You're welcome.

**von GILLERN:** Any other proponent testimony? Big chair.

**LEAH BARRETT:** It's a big chair and I'm a short woman. Thank you, Vice Chair Von Gillern and members of the Revenue Committee. I come to you today in support of LB689. LB689 is an innovative way to reduce

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property tax while protecting the statutory foundation of the community colleges of Nebraska. As stated in Statute 85-1501, the Legislature hereby declares that for a community college to be truly responsible to the people it serves, primary control of such colleges shall be placed in the citizens within the local area. It goes on to say it's the intent and purpose to create locally governed and locally supported community colleges-- college areas, with the major educational emphasis on occupational education. It goes on further to explain the financing. The Legislature recognizes the need for and importance of a strong partnership with the community colleges to assure the continued economic growth of the state. In recognition of that partnership, the Legislature affirms that community colleges should be financed through a funding partnership from property tax, state aid, tuition and fees and other sources of revenue. LB689 is a win-win. It honors the intent, the purpose and the financial-- the financing model to support Nebraska's community colleges and provides the property tax relief that is sought by our citizens, our Legislature and our Governor. I appreciate your time today and your thoughtful consideration, as you seek innovative strategies to create a tax structure for the state that supports rural vitality, economic development of all of our communities and the creation of a skilled and educated workforce. I'm happy to answer any questions.

**von GILLERN:** Thank you. Before we take questions, could I ask you to speak and spell your name, please?

**LEAH BARRETT:** Oh, I forgot. The chair took over. Leah Barrett, L-e-a-h B-a-r-r-e-t-t.

**von GILLERN:** Thank you, Ms. Barrett. Any questions from the committee? Yes, sir. Senator Briese.

**BRIESE:** Thank you, Vice Chair. And thank you for your testimony here today. So you're with Northeast, is that correct?

**LEAH BARRETT:** I am.

**BRIESE:** How many years have you been with them?

**LEAH BARRETT:** Three years.

**BRIESE:** Three years. And over those three years, are you aware of emails or complaints or concerns coming from property taxpayers, as to the community colleges' levy?

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**LEAH BARRETT:** I would say that I often-- not often, but the most concern I get is when I'm in person. I've not received phone calls or emails, but I do go out to our 20-county service area and talk about-- I will talk about property tax and the things that we're doing in each of those districts.

**BRIESE:** Sure. And so there is some pressure out there. In your opinion, does the existence of this credit, has it taken away some of that pressure?

**LEAH BARRETT:** I believe it absolutely takes away some of that pressure. We talk about it just as President Schmailzl explained. We did not-- we, we were not part of the truth in taxation postcard situation because we lowered our property tax or our, our levy-- lowered our levy, to have a very small increase in the property tax asking that we receive last year.

**BRIESE:** OK. Thank you.

**LEAH BARRETT:** You're welcome.

**von GILLERN:** Any other questions from the committee? Seeing none, thank you for being here.

**LEAH BARRETT:** Thank you.

**von GILLERN:** Any other proponent testimony? Welcome back.

**BRYAN SLONE:** I'll try to do this better. Vice Chair von Gillern and members of the Revenue Committee, my name is Bryan Slone, B-r-y-a-n S-l-o-n-e. I'm president of the Nebraska Chamber of Commerce and Industry, testifying in support of LB689 and on behalf of the Nebraska Chamber and the Lincoln Chamber of Commerce. Within our membership, it's clear what the, what the two priorities are. It's, it's workforce and it's reducing the income and property tax burdens of this state so we can become more competitive. And then, there's no, no-- not-- nothing even close to those two. In that context, there's a number of really important proposals that have been brought to the Legislature and many of them referred to this committee this year. LB689 is one of those proposals. It, it would eliminate the tax burden of property taxes levied by community colleges, by expanding the refundable income tax credit, ultimately, to be a full 100 percent of the property tax credit that are property taxes paid. It may be helpful just to, to take a quick look at Nebraska Chamber's policies from an education standpoint. The Chamber is-- believes community colleges are vital to our economic development efforts.

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There our partners and they're generally, a, a budget priority, even in hard times. Nebraska Chamber has a long-standing policy supporting the local property taxing authority of the community colleges to ensure that stability and reliability. This legislation would not affect local control of community colleges nor their ability to remain responsive to regional workforce demands. From a tax policy standpoint, the Chamber also has a longstanding policy, generally opposed to mere shifts of property taxes to income and sales taxes. That said, we've generally supported property tax relief as part of larger tax modern-- modernization packages that promote economic growth and revenue growth that's necessary to support income tax reduction, as well. We continued that policy and our property tax policies also call for fiscal responsibility and efficient management of tax-funded organizations. It's important to note then, that our support of this legislation is in the context of what we, hopefully, believe will be a larger tax modernization effort this year and education funding effort this year, with particular attention to the Governor's remaining bold proposals to reduce incoming property tax burdens. Perhaps LB689 will be a vehicle, vehicle that may help resolve any current differences in views with respect to community college funding. Regardless, we'll continue to work with our community colleges, the Legislature and the administration, throughout this session, to achieve the bold vision that's been put forth on income taxes and property taxes. And that, again, perhaps this is a potential solution. And with that, I'd be happy to take any questions.

**von GILLERN:** Any questions from the committee? Seeing none, Mr. Slone, thank you for being here. Any other proponent testimony? Seeing none, any opponent testimony? Good afternoon.

**JOEY ADLER RUANE:** Good afternoon, Vice Chair von Gillern and members of the Revenue Committee. My name is Joey Adler Ruane, J-o-e-y A-d-l-e-r R-u-a-n-e, and I am the policy director at OpenSky Policy Institute. We're here to testify in opposition to LB689, because we're concerned that it would obligate even more funds to a future tax credit, without knowing whether we can afford it. Obligating additional future funds to this tax credit now, while our revenues are heavily propped up by federal funding, has the potential to force tough decisions by future legislators, mainly if we see a drop in revenues after the federal funding ceases to flow through our economy. Additionally, if the goal is to alleviate our reliance on property taxes, we oppose a tax credit as the vehicle to do so, as it fails to address the conditions that led to the reliance in the first place. It is also a mechanism that lacks the transparency of an

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appropriation, which would also have the benefit of being reviewed regularly. Increasing state aid to community colleges and ensuring a sustainable revenue stream for that aid is likely to address the conditions that has led to the reliance on property taxes. It's because of these reasons we oppose LB689. Happy to answer any questions you may have.

**von GILLERN:** Any questions from the committee? Seeing none, thank you for being here.

**JOEY ADLER RUANE:** Thank you.

**von GILLERN:** Any other opponent testimony? Anyone would like to testify in the neutral? Seeing none, Senator Linehan, would you like to close? Senator Linehan waives closing. We have six proponent letters and zero opponent letters and zero neutral letters and we close our hearings for the--