

Transcript Prepared by Clerk of the Legislature Transcribers Office
Revenue Committee March 27, 2019

LINEHAN: And welcome to the Revenue Committee public hearing. My name is Lou Ann Linehan. I'm from Elkhorn, Nebraska, and represent the 39th Legislative District. I serve as chair of this committee. The committee will take up bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. If you are unable to attend the public hearing and would like your position stated for the record, you must submit your written testimony by 5 p.m. the day prior to the hearing. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please turn off cell phones and other electronic devices. Move to the chairs in the front of the room when you are ready to testify. The order of testimony is introducer, proponents, opponents, neutral, and then closing remarks. If you will be testifying, please complete the green form, and hand it to the committee clerk when you come up to testify. If you have written materials that you would like to distribute to the committee, please hand them to the page to distribute. We need 11 copies for all committee members and staff. If you need additional copies, please-- please ask the pages to make your copies-- copies for you now. When you begin to testify, please state and spell your name for the record. Please be concise. I'm actually thinking here for a second. I think we're going to go to three minutes today because it's very warm in here, and I-- and we've got five bills, right? So we're going to go three minutes. So you have three minutes. So you have two on green, and then you'll have a minute to wrap up when it's yellow. If your remarks are reflected in previous testimony or if you would like your position to be known but do not wish to testify, please sign the white form at the back the room, and will-- it will be included in the official record. Please speak directly into the microphones so that our transcribers are able to hear your testimony clearly. I would like to introduce committee staff. To my immediate right is legal counsel, Mary Jane Egr Edson, and to my immediate left is research analyst, Kay Bergquist. To the left at the end of the table is our very capable committee clerk, Grant Latimer. And I would like the committee members to introduce themselves.

KOLTERMAN: Mark Kolterman, District 24, Seward, York and Polk Counties.

LINDSTROM: Brett Lindstrom, District 18, northwest Omaha.

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FRIESEN: Curt Friesen, District 34, Hamilton, Merrick, Nance and part of Hall County.

McCOLLISTER: John McCollister representing District 20, central Omaha.

CRAWFORD: Good afternoon. Senator Sue Crawford, District 45 which is eastern Sarpy County.

BRIESE: Tom Briese, District 41.

LINEHAN: And I'd like to ask our pages to stand up. They're Brigita Rasmussen is a sophomore at UNL majoring in agricultural education and "Sunny" Ghidey, a senior at UNL, major political science. So thank you, ladies. Please remember that senators may come and go during our hearings, as they may have bills to introduce in other committees. Please refrain from applause or other indications of support or opposition. I'd also like to remind our committee members to speak directly into the microphones. Also for our audience, the microphones in the room are not for amplification but for recording purposes only. Lastly, we are electronics equipped committee, and information is provided electronically as well as in paper form. 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 is critical to our state government. And with that, we will open on LB601. Senator Lindstrom.

LINDSTROM: Good afternoon, Madam Chair and members of the Revenue Committee. My name is Brett Lindstrom, B-r-e-t-t L-i-n-d-s-t-r-o-m, and I represent District 18 in northwest Omaha. Today, I bring before you LB601 to change a property tax exemption relating to educational, religious, charitable, and cemetery organizations. The bill would strike the limitation for these organizations serving alcohol for more than 20 hours per week in order to receive the property tax exemption. There will be a testifier following me to speak on the particular issue in which this bill is sought to resolve. With that, I'll be happy to answer-- answer any questions you have. Thank you.

LINEHAN: Thank you, Senator Lindstrom. Are there questions from the committee? Seeing none-- Oh, I'm sorry, Senator McCollister.

McCOLLISTER: This-- Senator Lindstrom, thank you, Madam Chair. It wouldn't affect the fish fries on Friday night, would they?

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LINDSTROM: Good question. I suppose if they did 20 hours a week or more, but the longest I've ever waited on mine is about five hours so-- so probably not.

McCOLLISTER: Some of those-- some of those fish fries go longer than 20 hours.

LINEHAN: Thank you, Senator McCollister. Other questions from the committee? Seeing none, thank you. Proponents? Go ahead. That's fine.

MAX RODENBURG: Good afternoon, Chairperson Linehan and members of the Revenue Committee. My name is Max Rodenburg, M-a-x R-o-d-e-n-b-u-r-g. I'm an attorney with the law firm of Rembolt Ludtke here in Lincoln, and today, I'm here on behalf of the Kimmel Orchard and Vineyard Educational Foundation. I want to thank Senator Lindstrom for introducing this bill, first and foremost. And I also want to open by saying that it is not our intent to ask the committee to advance this bill this session. Rather, our intent is to simply bring to the committee's attention an issue which currently affects Kimmel Orchard and some other similarly situated nonprofit organizations across the state. First some background, Kimmel Orchard, for those who aren't aware, is a registered 501(c)(3) non-profit which is organized exclusively for charitable and educational purposes. It offers regular on-site courses with systematic instruction in the fields of agricultural education research, agritourism, and agribusiness. It partners with the university to create the Kimmel Education and Research Center which is an on-site facility focusing on community vitality initiatives and youth science, technology, engineering, and math careers. For more information, I urge you to visit their Web site. Kimmel Orchard also has a vineyard on-site, and part of its educational mission consists of educating the public on the science and business of grape-growing. They regularly host classes and conferences for the public on subjects ranging from cultivating vineyards in a Midwestern climate to selling a locally produced agricultural product like wine. In furtherance of this mission, Kimmel Orchard has a small, about 900-square-foot or 30-by-30, wine tasting room on its property which consists of roughly 3 percent of its more than 31,000-square-foot property which brings me back to the bill. Currently the Nebraska property tax exemption statute 77-202 contains a five-part test that an organization must meet in order to be exempt from property tax. One part in this test is that alcohol may not be sold for more than 20 hours on the premises. Currently this language prohibits Kimmel Orchard-- or has prohibited Kimmel Orchard from

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qualifying for a property tax exemption in Otoe County. And as a result, Kimmel Orchard has paid nearly \$50,000 per year in property tax. Part of the reason that we are not asking you to advance this bill today is that we are currently working to resolve this issue with Otoe County officials. The Nebraska Association of County Officials, or NACO, particularly Larry Dix and Jon Cannon, have been very helpful in putting us in touch with the right people and the right resources to hopefully reach a fair resolution to this problem. We simply thought that it is an issue that has the potential to affect many more nonprofits than just Kimmel Orchard, and for that reason, we wanted to bring it to the committee's attention today. I'd be happy to answer any questions that you may have. And thank you for your time and your attention this afternoon and for your service to this state.

LINEHAN: Thank you, Mr. Rodenburg. Are there questions from the committee? Seeing none, thank you very much for being here. Appreciate it. Other proponents? Are there any opponents. Anybody wishing to testify neutral?

LARRY DIX: Good afternoon, Senator Linehan and members of the committee. My name is Larry Dix, L-a-r-r-y D-i-x, executive director of Nebraska Association of County Officials appearing today in a neutral capacity. Certainly we thank Senator Lindstrom for introducing the bill to bring this conversation up, and we've had great conversations with the law firm that's representing the orchard there. I think one of the things from NACO's perspective, you know, many times it's sort of hard for some entities to sort of navigate through this. And we think education is many times an answer to a number of the issues that are being brought up. And I think we-- we've had a couple of bills this year in front of the Legislature that we believe proper education, not only for taxpayers but also for our assessors, really assists in-- in addressing the problem that some citizens are going through. And this is an example of that. You know, as the bill originally is just-- was just written certainly it would have an impact on a number of entities. And I think the Friday fish fries are safe, but there are a number of other entities that it could have an impact on. So you know, I'm not going to belabor it, since all the requests are to hold the bill. We've got other important things to discuss today, so I'll just leave it at that. If-- if the bill comes back at some point in time and we really have a serious look at it, we'll be happy to participate then and answer any questions that you have. Thank you.

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LINEHAN: Thank you, Mr. Dix. Other questions from the committee? Seeing none, thanks very much. Others wishing to testify in the neutral position? Senator Lindstrom, would you like to close? Senator Lindstrom waives closing. We have no letters for the record on LB601 so that will close the hearing on LB601, and we will open the hearing on LB640. Senator Walz-- LB440. Sorry.

WALZ: Good afternoon, Chairwoman Linehan and members of the Revenue Committee. For the record, my name is Lynne Walz, L-y-n-n-e W-a-l-z, and I proudly represent Legislative District 15. I'm out of breath. I'm here today to introduce LB440. This is a simple bill to increase the jet fuel tax from three cents per gallon to ten cents per gallon. Before I begin, I would just like to share some information on what we're talking about. There are two main fuels that are used to power airplanes, aviation gas, otherwise known as avgas, and jet fuel. Avgas is typically used for powering smaller airplanes, like those used for crop-dusting, that the state currently taxes at a rate of five cents per gallon. Jet fuel is used to power the planes that we would fly in commercially, and it's taxed at a rate of three cents per gallon. My research has shown that the jet fuel tax has not increased since 1984. The money that is collected from these taxes is directed to the Aeronautics Cash Fund. Part of the fund goes towards airport operational cost. There are airports all across Nebraska that are available for public use, and a number of them are running at a loss. We still have to fund these airports if we want to keep them running. Many of these are in rural areas like Alliance Municipal Airport, Central Nebraska Regional Airport, Chadron Municipal Airport, Kearney Regional Airport, McCook Regional Airport, North Platte Regional Airport, and the Western Nebraska Regional Airport. If the cost of operations is paid for by the revenue-- by the revenue we bring in with this tax, it means that we will have to-- if the cut-- I'm sorry. If the cost of operations is not paid for by the revenue we bring in by this tax, it means that we will have to take money out of our General Fund to pay for this, money that could otherwise be used to solve other problems we face in our state such as property tax relief. There are rural-- there are your rural airports-- or I'm-- excuse me. There are-- these are your rural community airports that need this. And I can tell you from experience over the last two weeks and after dealing with the flooding in my area, that this is a necessity. And it was a necessity for our community. When Fremont was surrounded by water and flooding, our airport was the only way in and out of our community. Normally we would expect the individuals using these airports to pay for the operational cost. But seeing how these

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airports are generally used for smaller planes that use avgas, such as an agricultural aircraft, I did not want to put a heavier burden on the farmers we are trying to provide property tax relief to.

Therefore, I am asking the Revenue Committee and these major airline companies to help offset these costs in our more rural areas by accepting a moderate increase in their jet fuel tax, especially considering the last time this tax was raised was 1984. Currently we are placing a heavier burden on smaller farming operations that are paying five cents per gallon and our larger companies who are paying three cents a gallon. Thank you. And I would be happy to answer any questions that you might have. And if I can't, I think there's somebody coming up behind me who could.

LINEHAN: Thank you, Senator Walz. Are there questions from the committee? Senator Crawford.

CRAWFORD: Thank you, Chairwoman Linehan. Thank you, Senator Walz, for bringing this bill. Do the users of those rural airports pay some fee for their use of the airport, like a landing fee or a--

WALZ: I don't know, Senator Crawford. I think somebody else could answer that question. I'm sorry.

CRAWFORD: OK. OK.

LINEHAN: Thank you, Senator Crawford. Other questions from the committee? Seeing none, you'll stay to close?

WALZ: Sure.

LINEHAN: Proponents? Are there any proponents?

DAVE WELSCH: Oh, I'm sorry. Sorry. I didn't want to demote you there.

KOLTERMAN: It's all right.

DAVE WELSCH: Good afternoon, Senators. My name is Dave Welsch, D-a-v-e W-e-l-s-c-h. Out of respect for the hearing process, I asked both Senator Walz and Senator Linehan if it was OK to present the information that I have for you today. And they both agreed to that. I just want to take my last opportunity to address this committee, and this was the best bill that I could connect with. So I thank you for their leniency. And I guess the connection is that I do agree with the way that Senator Walz is trying to increase revenue. And that's certainly one of the things that this committee is working on is

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increasing revenue to provide property tax relief and also provide funding for other needs across our state such as a airport runway. So the first handout, in the upper left-hand corner, dated March 26, is a one-page summary that I handed out to all of the-- all of your offices or to you personally on Monday. Hopefully you've had a chance to look at it. It's a model done by OpenSky. As you can see, some people have questioned how much lowering ag land valuation to 40 percent, how many school districts would be impacted by that. At the top there, you can see that 83 school districts could potentially lower their general fund levy by 15 cents or greater. There's also 88 districts that would not receive any levy reduction, and the next set of numbers shows that out of those 88 districts, 74 of them already have a levy below 70 cents. And then, if you move to the bottom, the general fund levy that schools currently have in the brackets of greater than 90 cents, 75 to 90, and less than 75 cents, the current general fund levy, there's 80 schools in the first area, 50 in the middle, and then 114 of less than 75. If we lowered ag valuation to 40 percent just within the TEEOSA formula, we would then have only 26 schools with levies over 90 cents, 43 in the middle bracket, and an increase of 61 schools that could drop their levy below 75 cents. I see I only have one minute to talk about the next page. And I do believe that there are some better solutions out there than what I'm proposing here. But this basically combines lowering ag land valuation to 40 percent along with the supplemental aid that was introduced by Senator Crawford. The total of those two would amount to \$277 million. And these are monies that would have to be added to the current TEEOSA formula so that we hold harmless any other districts that might not be impacted. But supplemental aid is provided to all students across all of Nebraska. I guess due to the timing here, if you look down at the bottom again to compare the two scenarios, if we did both of those things, there'd only be 15 schools with the levy above 90 cents, 32 between 75 and 90, and 197 school districts could potentially have a levy of less than 75 cents across the state. I think that's definitely a significant impact to property taxpayers across the entire state, and the supplemental aid would go to all students across the state, rural districts that are not equalized as well as urban districts that are both equalized and nonequalized. And I just wanted to share those numbers with you. I think sometimes we talk about bills but we don't realize what the impact will be. And so I just want to share that with you.

LINEHAN: Thank you, Mr. Welsch.

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DAVE WELSCH: Thank You.

LINEHAN: Thank you much for being here. Questions from the committee? So you had this-- in your scenario here, it leaves commercial and residential at where it is. It just reduces ag.

DAVE WELSCH: Correct. Within the TEEOSA formula, correct.

LINEHAN: So is \$151 million, that would make up for what the 40 percent reduction cost?

DAVE WELSCH: No. On the first handout, up at the top, it shows ag land valuation reduced to 40 percent just within TEEOSA--

LINEHAN: OK.

DAVE WELSCH: -- and I'm not talking about what we levy against but just within TEEOSA, that would cost \$126 million. And that would be new monies that would have to be added to TEEOSA so that if this was the only action taken, it would hold harmless all other nonequalized districts. And then when you move to the second page, which includes supplemental aid in addition to the dropping ag valuations to 40 percent, I believe the supplemental aid number I came up with was about \$151 million. I think that's in the ballpark of what Senator Crawford's fiscal note was for that. So you'd have a total between those two-- two changes within TEEOSA that would total \$277 million. And again, I'm mainly just bringing this to you. I know you guys are having a lot of discussions. I think there's probably some better solutions than what this second page represents, ways to maybe target relief to districts that, you know, just giving \$488 per student across the board. Maybe that's not the best way to do it. Maybe there is a better way, and I appreciate all the effort that's gone into trying to come up with that solution. And to me, this-- this proposal is really just kind of a fallback. If we get bogged down on the floor of the Legislature and we can't come to an agreement, or we can get 33 votes because maybe some people will argue that the solution is too complicated, I don't understand it, this is a two-step process. I think it's very clean. It's easy to understand. Again, I'm not sure this is necessarily the best solution, but it is a very simple solution that I think everyone could understand and could be a fallback if, in my opinion unfortunately, we would get to that point. But I just want to share those numbers, that this would still provide significant property tax relief.

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LINEHAN: Thank you. Thank you for all your work this year. It's been very helpful. Any other questions from the committee? Seeing none, thank you.

DAVE WELSCH: And thank you for your leniency today, and thank you for all the time I've spent with you. I really appreciate it, and I've learned a lot. Thank you for your efforts.

LINEHAN: Thank you. Other proponents? Are there any other proponents?

GEARY COMBS: Good afternoon. My name is Geary Combs and the first name is spelled G-e-a-r-y, and the last name is C-o-m-b-s. I'm the chairman of the Blair Airport Authority in Blair. And I'm here today to testify in support of LB 440. LB440 would increase the funds available to the Nebraska Department of Transportation Division of Aeronautics to support grants statewide for much-needed improvements to Nebraska's airports, improvements that will benefit the state, the Nebraska communities, and the aviation industry. Although LB440 is called a tax, it's really more than that. It's a user fee, a fee that supports the development of aviation infrastructure for the benefit of those individuals, businesses, and industries, that are using the facilities while reducing, as has been pointed out earlier, general property taxes to our cities, farmers, ranchers, and nonflying business. Nebraska has 80 general aviation airports that generate millions of dollars and strong employment to the economy of the state. According to the information from NDOT Division of Aeronautics, the division's revenues, excluding federal AIP pass-through funds, have decreased over \$1 million since 2006. The division was only able to support Nebraska needs with projects totaling \$304,000 in 2017. And it appears that they may have as little as \$100,000 for the current year. LB440 would increase the revenues needed to support the infrastructure of improving Nebraska airports. I'd like to use Blair as example of how a successful airport progressed with a lot of its own ambition as well as support from the Federal Aviation Administration and Division of Aeronautics. From 1996 to 2017, Blair, with partial funding from the FAA and the assistance of the Division of Aeronautics, constructed runway turnarounds, parallel parking ramps, automated weather observation, attracted fixed base operators, private individuals, and corporate aircraft. In 1996, there were 13-- 38 single piston engine aircrafts, and today, there are 49 single engine piston aircrafts, 40 multiengineered-- multiengine aircraft, 8 jet aircraft, and in 2019, there will be 4 jet turbine helicopters in the fleet at Blair. The projects are funded, in part, by federal grants, local property tax,

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and state funding. Today, with virtually no funding available from the state, the burden of improving the airport falls fully on the federal dollars and local property tax. Blair's total projected AIPs into short-term, near-term and the future is \$32-- \$32.4 million, over which \$400 million-- I'm sorry, over which \$4 million will fall directly on the property tax. Blair is just one of Nebraska's general aviation airports that have CIP programs that are not funded. Some of these projects are needed for safety, support of medical and life supports, some to support local and state growth, and some, such as Fremont, that was pointed out earlier, to support emergency response-- excuse me, when only-- when the only mode of transportation in and out of Fremont was by air. I ask your support of L440 today-- LB440 today, and thank you for your consideration.

LINEHAN: Thank you, Mr. Combs. Are there questions from the committee? Senator Friesen.

FRIESEN: Thank you, Chairman Linehan. Are there other fees that airports charge for-- for planes landing, landing fees, that type of thing?

GEARY COMBS: I can tell you that Blair does not. We have a fuel-flow fee that supports the operating funds of the airport. I believe Millard does have a landing fee. I don't know about the others.

FRIESEN: Do you get private planes, cross-country flights that stop just for fuel because we're reasonably priced?

GEARY COMBS: Yes. Yes, there are multiple jet-- jets that-- or transient aircraft that stop at Blair for fuel, specifically for fuel and the service provided by the FBO. As well as there are some medical helicopters starting to use Blair also.

FRIESEN: OK. Thank you.

GEARY COMBS: And they are jet turbine aircrafts.

LINEHAN: Thank you, Senator Friesen. Other questions from the committee? Senator McCollister.

McCOLLISTER: Yeah. Thank you, Madam Chair. And thank you for coming here this afternoon. Recently Omaha moved their helicopter fleet to Blair, isn't that correct?

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GEARY COMBS: That's correct.

McCOLLISTER: Do you charge-- charge them some kind of housing fee or?

GEARY COMBS: Yes. Blair has a hangar that OPD will lease, and OPD has a budget to build out the inside of that hangar to meet their needs which will be paid for by the Omaha Public-- the Omaha Police Department. And then they will buy fuel from the field FBO there. So the-- the revenues coming to Blair are the rental of the hangar as well as a fuel-flowing fee for the fuel that's burned by the jet helicopters.

McCOLLISTER: Are there any other user fees that you charge?

GEARY COMBS: No. No.

McCOLLISTER: Yeah. Thanks again.

LINEHAN: Thank you, Senator McCollister. Other questions from the committee? You know what the average-- Oh, I'm sorry, Senator-- Senator Crawford.

CRAWFORD: Thank you. That's OK, Chairman. My-- thank you, Mr. Combs. So just to clarify do you receive any portion of current fuel taxes?

GEARY COMBS: Only through the division of aviation and we have benefit from-- benefited from some of those taxes in the recent past.

CRAWFORD: Thank you.

LINEHAN: Other questions? Do you know what the average fuel tax in the United States is? Every state gets to have their own fuel tax, is that?

GEARY COMBS: Every state is different. I think it-- I-- I-- I-- I-- I can get that for you. I have some notes but--

LINEHAN: Yeah. It'd be helpful if the committee knew what. That's why you're always prepared.

GEARY COMBS: I know that some states do it on a percentage basis of the cost of fuel before markup, and then some do it a nickel, four cents.

LINEHAN: OK. OK. OK. That'd be good if we could see that.

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GEARY COMBS: Sure.

LINEHAN: OK. Any other questions? Seeing none, thank you very much for being here.

GEARY COMBS: Thank you very much.

LINEHAN: Other proponents? Are there any opponents?

KYLE SCHNEWEIS: Good afternoon, Chairman Linehan, members of the committee. I'm Kyle Schneweis, K-y-l-e S-c-h-n-e-w-e-i-s. I'm the director of the Nebraska Department of Transportation. I'm appearing today in opposition to LB440 which would increase the tax on aviation jet fuel from three cents to ten cents. The jet fuel tax is deposited in the Aeronautics Cash Fund, and it provides grant funding for Nebraska public-use airports and is the basis for the aero-- aeronautics division's operations. The revenue generated from the current tax provides the agency with a yearly average of about \$1.5 million. Increasing it would equal a tax increase of over 200 percent, and we don't believe that that tax increase is warranted. Aviation is very important to Nebraska. The state is home to 80 public-use airports. The airports are used for travel, business, aviation, aerial application services, flight instruction, medical, and other emergency services. As you know, in 2017, the Department of Roads and the Department of Aeronautics were merged into the Department of Transportation, and one of the goals of the merger was to locate and find efficiencies. We have had some success doing that. We were able to put an extra \$200,000 into grants in the last cycle as a result of efficiencies that we found from the merger, and we're-- we are continuing to look for those opportunities. You'll all remember former director, Ronnie Mitchell. He recently retired. We've just hired a new director to lead the aeronautics division, and one of the expectations will be that we continue to find those opportunities to leverage the larger DOT in terms of efficiencies with aeronautics funding. And the last piece, I would just say, is I think before we make policy decisions like this, it's important to understand what the needs of aviation are. We haven't done a systems needs update since 2002. And so it's time for us to go back and look at the needs and see what we really do need as a state for airports. We do plan to update that study soon, as early as this year or next. We're in the middle of an economic impact study. That's why we're not doing the-- the systems needs plan yet. We're starting with economic impacts. That'll help us better understand how aviation affects our economy. And the last piece is we are getting ready to start our comprehensive long-range

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transportation plan at the DOT. And it'll be the first one we've done since the merger, the first one where we can talk about aviation and aviation needs as a part of the larger context of transportation. And that will, again, give us a better footing of what we believe the aviation needs are in our state. So we've come a long ways in a couple of years. We think there's some more opportunity and more room to grow. And so with that, Chairwoman Linehan, members of the committee, I thank you for your time. I'm happy to answer any questions.

LINEHAN: Thank you, Director. Are there questions from the committee? Did somebody-- somebody raise their hand? I see none. Thank you very much. Other opponents?

JOHN HEIMLICH: Good afternoon, Chairwoman Linehan and members of the committee. I'm John Heimlich, H-e-i-m-l-i-c-h, vice president and chief economist with Airlines for America. We represent the nation's passenger and cargo airlines. And we have today with me some of my member carriers, UPS, Southwest, American, and United as well as a colleague from Allegiant who I believe may be speaking after me. We are greatly concerned and unanimously opposed to the sharp increase in jet fuel taxes proposed by LB440. Unlike other government functions, commercial airports do not require significant general fund resources. Airlines, passengers, shippers pay for the vast majority of operations at the airports that we use via terminal rents, hanger rents, landing fees, parking fees, food and beverage retail, ticket taxes, cargo taxes, and federal fuel taxes as well as fuel-flowage fees that were mentioned by a preceding witness. Nebraska's commercial airports record-- reported record operating revenues in 2017 to the Federal Aviation Administration and have funded, since the recession in '09, \$400 million in capital improvements over that period. They've also received, according to FAA's own Web site and this includes the general aviation airports in the state, the whole state's aviation system was awarded federal airport improvement grants of \$33.9 million in 2017 and \$29.6 million in '18. That didn't just go to the commercial airports, that went to-- for example, Kearney, in 2017, got \$10.7 million. These are federal grants that are supported by airline ticket taxes, cargo taxes, and fuel taxes. And North Platte received, over the last couple of years, \$2.3 million. These are some of the resources. LB440 proposes a 233 percent increase in the state's jet fuel tax which won't only raise the annual taxes our industry pays by an estimated \$4.7 million annually, but also importantly, have negative consequences on airfares, shipping costs, and air service growth just at a time when I know the state is working hard to foster

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economic development. To your question about average fuel price, we do have some statistics. Right now, the state is in the middle of the pack nationwide, about 27th out of 50 states, in terms of what it charges effective rate on jet fuel. Unfortunately, this hike would take that to the 15th worst state in the country. It was-- it was mentioned before that the rate hasn't gone up since 1984, and I would argue that is one reason, for a state with relatively smaller population, why it's able to retain and attract air service. I wouldn't want to put that at risk. I'll mention that air service from Kearney, North Platte, Omaha, and Scottsbluff is at or near record-- record levels. You've been doing very well the past few years.

LINEHAN: I need you to wrap up because you're yellow.

JOHN HEIMLICH: It is true that airports like Alliance, Chadron, and Lincoln remain depressed. But I can assure you that increasing the price of fuel will only worsen their chance to attract more flights. Airport directors hold mouth-- multiple conferences each year, meeting with carriers, trying to get them to increase air service to their communities. Our-- we have a finite set of airplanes and flight crews and they will be redeployed in the interest of customers, employees, and shareholders to get the best returns. What passengers want--

LINEHAN: OK. Maybe somebody will ask you a question because--

JOHN HEIMLICH: Sure.

LINEHAN: Thank you very much for being here. Are there questions from the committee? Yes. Senator Kolterman.

KOLTERMAN: Would you finish your remarks? It'd be nice to hear what you have to say.

JOHN HEIMLICH: OK. Certainly. Fares have gone down the last few years in the state and the preliminary data suggest 5 percent in 2018. I will just add that these lower fares are direct result of rapidly increasing competition not only among the larger carriers who connect Nebraska to the-- to the world, but from growing low-cost carriers like Allegiant and Frontier whose customers are especially price-sensitive to the smallest increase in cost. We ask you not to put these successes at risk and to project-- to reject the proposed increase. There are other ways to raise revenue, and in fact, organic

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growth of air service in the state is probably the best way to generate more revenues for the aviation system.

LINEHAN: Thank you very much. Other questions? Senator Groene.

GROENE: Maybe you know the question but the cost of fuel prorated per passenger, where's that range?

JOHN HEIMLICH: I haven't looked in a while on a per-passenger basis. I can tell you that it is about one-fourth of an airline's operating costs. Labor is the first, around-- a little over 30 percent, so it's generally the case consistently that labor and fuel are number two. So when our number-two cost input goes up, we look very closely at where to redeploy aircraft where they make the most sense. We need to fill the airplanes year-round, not just in peak season. And like I said, there are airport directors all over the country who want to compete for that-- that fragile, scarce asset.

GROENE: Is there competition? Do they put a big sign up in the air saying we're 2-- 37 in the continental air?

JOHN HEIMLICH: For fuel--

GROENE: Yeah.

JOHN HEIMLICH: --for fuel supply?

GROENE: Do you admit that, the airlines? I mean I'm getting into your business model, but.

JOHN HEIMLICH: Is there competition in the fuel supply chain?

GROENE: Yes. [INAUDIBLE]

JOHN HEIMLICH: Absolutely. I mean it varies. Sometimes the logistics at a location sort of prohibit-- are cost-prohibitive for additional suppliers. But you know, we-- we truck fuel, we use pipeline. And I guess the point to make here, which is another thing to be concerned about, is that airlines routinely-- like you will fill up your, as I will, my car with gasoline at a cheaper gas station to avoid the high-price one in town. Airlines will do the same thing with their aircraft, particularly on short-haul flights. They will so-called load heavy. It's called economic tinkering. Texas, for example, does not charge any tax on jet fuel. So if I'm flying from Dallas to Lincoln, I will fill up more fuel than I need to get to Lincoln if the price is

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higher here including taxes. We'll look at the finished price. That will avoid economic transactions and diminish revenue in the state. So it's something we consider very, very closely.

GROENE: Thank you.

LINEHAN: Senator-- Senator-- thank you, Senator Groene. Senator Kolterman.

KOLTERMAN: Thank you, Senator Linehan. Will you expand a little bit on-- you said something about we're growing through organic waves. Explain the term [INAUDIBLE].

JOHN HEIMLICH: Right. Well, I'm-- basically, all I'm saying is, you know, in the last few years, we've seen so many of these airports come to record levels of air service in terms of the number of flights or the number of seats supplied, and we've seen diversification of the business models. You have growth by Southwest, growth by Allegiant. FedEx and UPS actually lift the most gallons in the state. And you have-- United is now serving five markets in the state. I think American serves one or two. When those volumes of flights grow, more gallons are being purchased in the state and more taxes are being paid on those gallons, sort of the natural way, you know, business development. It is low costs of operating in the state then enable that kind of growth. I think that is the best way to see revenues grow here. We are-- we are proud to serve big and small communities and proud to pay user fees at all those airports to support them. What we're loath to do is, you know, subsidize airports that we don't use. And that's one of the roles of the federal grant program that includes our take in taxes.

LINEHAN: Thank you. Thank you, Senator Kolterman. Other questions from the committee? Senator Briese.

BRIESE: Thank you, Chairman Linehan. Thank you for your testimony here today.

JOHN HEIMLICH: All right.

BRIESE: You indicated earlier that fuel represents roughly 25 percent of your cost.

JOHN HEIMLICH: Yes.

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BRIESE: What percent of your fuel cost does seven cents a gallon represent ballpark or what's fuel selling for?

JOHN HEIMLICH: Well, these days-- these days the so-called into-wing price is probably somewhere around \$2.20 a gallon. So you know, it would be-- it would be under ten percent. But we-- we will definitely-- the airlines will definitely make decisions based on pennies, even fractions of pennies per gallon. It is very, very competitive-- keep in mind that our-- just the U.S. airline industry alone in our worldwide operations, we do about 20 billion gallons a year to support our flying. So every penny per gallon per year is \$200 million, and it could make the difference. You know, if a nearby state or an airport director has a very competitive proposition, a low cost of operation, that airplane-- that-- or that flight, that route that might be on the bubble could easily move there. We don't like to do that, but they will look at it. Pennies matter.

BRIESE: It's fair to say we're talking about less than 1 percent of your operating costs, probably, with this increase.

JOHN HEIMLICH: The tax-- seven cents per gallon I think would be-- probably be more than one. But it's-- you know, like I said, in this-- in this state, you know, which has some smaller markets, that-- that could make the difference between the equivalent of a passenger or two on board which can make-- render the flight uneconomical.

BRIESE: Thank you.

LINEHAN: Thank you, Senator Briese. Other questions from the committee? Seeing none, thank you for being here.

JOHN HEIMLICH: Thank you.

LINEHAN: Other opponents?

SARAH CURRY: Good afternoon. My name is Sarah Curry, S-a-r-a-h C-u-r-r-y, and I'm the policy director for the Platte Institute. During the last few months, this committee has discussed numerous tax proposals. And I think we've all agreed on the fact that taxing business inputs is bad tax policy and should be avoided. In this case, most aviation jet fuel is a business input and quite a significant one. From the statistics that I was able to find, jet fuel accounts for between 20 to 40 percent of airline operating costs which is typically passed along to the consumer through higher prices. So the

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taxation of business inputs, which you're well aware of, is referred to tax pyramiding which results in higher costs for consumers and less transparency in the true cost of the product. Just last year, U.S. airline CEOs sent a letter to the U.S. Department of Transportation urging the federal government to stop increasing the taxes and fees on the airlines because these costs consume over 20 percent of the average round-trip airline ticket. Aviation is already subject to 17 unique taxes and fees imposed by the federal government. Increasing the Nebraska jet fuel tax will put Nebraska at a disadvantage to her neighbors in the Midwest. Many transcontinental flights will stop in the Midwest to refill their planes. If this tax were to go into effect, we would see more air travel go to Kansas to refill their planes due to their extremely low tax on aviation jet fuel rather than Nebraska. Most states avoid taxing aviation jet fuel altogether by not including it in their state sales tax base. Sixteen states do tax private jet fuel purchases, but they exempt the commercial jet fuel in order to avoid the business input. We've seen a movement across states since 2015 to suspend or eliminate their aviation jet fuel excise taxes in efforts to create a more progrowth environment, especially in states with major airline hubs. And the most recent one that got a lot of attention was Georgia. They had a 15-cent state tax and they-- they suspended it completely. Nebraska doesn't need to move into the other direction by increasing barriers to the aviation industry. Vince Dugan, the president of Nebraska-based Trego/Dugan Aviation, spoke with me about the impact this tax would have. He was unable to be here today, but he has submitted a letter outlining his concerns about this tax. And I encourage you to read that. He also included a table showing the components and current tax levels of aviation jet fuel in Nebraska and our surrounding states, and I've included that on the backside of my testimony so you can see that. And just a little background, Missouri currently has their tax at .0042 cents. Just a few years ago, it was 3.3. Kansas had a tax of 21.5 cents and now they are at .0003 cents. So we're even seeing our neighboring states lowering their aviation jet fuel tax. And I'm happy to take any questions. Oh, Senator Friesen, you did say something. The federal taxes on aviation jet fuel-- I can stop. I know it's red.

LINEHAN: Thank you, Ms. Curry. Are there questions from the committee?
Senator Friesen.

FRIESEN: Thank you, Chairman Linehan. One of the questions, you may have a different answer, but I'm curious what those with no tax on jet

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fuel, do they have higher landing fees then or access fees or something like that? Or how do they maintain their airports?

SARAH CURRY: So that's what I was going to get to. I don't know about the specific fees in other states as that works, but I do know there's a significant number of federal fees and federal taxes like the gentleman before me explained. There's actually a big policy debate at the federal level because the fees that are collected from all the airports go into this federal bucket of money, and then they're dispersed. And a lot of people believe that they should be dispersed based on user volume. So Chicago O'Hare, Atlanta, those types of places should receive more, and they're not. The majority of the funds leaving that federal fund are going to the small, rural airports. And that's what he was talking about. Nebraska, small, rural airports actually receive a significant amount of money from that federal fund. And so whatever state aviation fuel tax we have is just in addition to what that federal fund is. There was a decision by the FAA a couple of years ago mandating that jet fuel taxes can only be spent on air travel-related things. And that hit California really hard because they were just taking it and putting it into their general fund. And so they had to change some things around. And that might be why we've seen states lower the tax because they don't need it for their rural airports because they're getting enough from this federal fund.

FRIESEN: OK. Thank you.

LINEHAN: Thank you, Senator Friesen. Other questions? Senator Briese.

BRIESE: Thank you, Chairman Linehan. Thank you for your testimony. You mentioned earlier about taxation of business inputs, and I agree with those comments entirely. We should avoid that whenever possible. Any estimation here as to what percent of the fuel that's sold in-- jet fuel sold in Nebraska would be considered business-related?

SARAH CURRY: When I spoke with Vince, we talked about that very issue. And he said, the people that fly up here on their private planes to go visit the Nebraska Huskers football game, they should pay tax because it's just for fun and amusement. But he said, the majority of the transcontinental flights that are coming here, that is a business input, all the commercial flights coming into Omaha and Lincoln. So from my conversation with him, a majority of the jet fuel that is sold is a business input. Sponsoring senator mentioned the other type of fuel. That is what the smaller prop-- propeller plant-- planes use. I

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believe that's more on the recreational side. And so there is that difference there. But I don't have a percent.

BRIESE: But it probably would be a very substantial majority.

SARAH CURRY: For the jet fuel, yes. For the other one, not so much.

BRIESE: OK. Thank you.

SARAH CURRY: You're welcome.

LINEHAN: Thank you, Senator Briese. Other questions? Seeing none, thank you very much for being here.

SARAH CURRY: Thank you.

LINEHAN: Other opponents?

ERIC FLETCHER: Hello. Thank you committee members for letting us be here today. I'm Eric Fletcher from Las Vegas-based Allegiant Air, flew in today for this hearing. Wanted to share--

LINEHAN: You need to spell your name.

ERIC FLETCHER: Oh, Eric, E-r-i-c, Fletcher, F-l-e-t-c-h-e-r, wanted to explain the situation from Allegiant's perspective. Allegiant is a budget airline, and as a budget airline, we view things a little bit differently. Over the last few years, Allegiant and airlines like Allegiant, the budget model, have been the fastest-growing. And Nebraska is no different. We've grown dramatically here over the last few years as the handout you're looking at shows. You can see our route map on the backside nationally and then what we fly in and out of Nebraska. In Nebraska right now, we fly to two cities, Omaha and Grand Island. And there's eight routes total. Allegiant aims to fly routes that many other airlines aren't. There's four of the routes that we serve in Nebraska right now where we're the only airline flying not-- nonstop. The other thing we aim to do that's really different is we aim to stimulate new travelers with low fares. Our base fare is about \$66 in or out of the state. And then, if you add in the bag fees, those seat assignments, those optional add-ons, our average is then just \$84 compared to the other airlines average fare. They're great airlines. My colleagues are here today, and I know they're very well-- willing to come speak if there's questions from them. The other airlines, their average fare's \$216. This dramatic-- this dramatic fare difference creates new travelers. Allegiant says,

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our biggest competition is the couch. When someone sees a fare that's that low, they say, I might now be willing to take the vacation. And a perfect example of this was, I had friends last year that came to me and said, hey, did you know your airline is selling tickets from Las Vegas to Nebraska for \$50? We can go to the Cornhuskers' football game. And they absolutely did. They said the locals were incredibly hospitable to them. And that literally was a brand new trip that was created out of a low fare. That's the way the Allegiant model works. And because of that, they came here. They were in the restaurants, stayed in a hotel, rented cars. So that's what we say would be at jeopardy if this 233 percent jet fuel tax came into play. It would dramatically increase the cost to Allegiant. We wouldn't have as much space in our fares to try to absorb it like the other airlines will. It would definitely, my colleagues say, hurt them. But to Allegiant it would be disastrous because we are trying very hard to be profitable still in those low fares. Any questions from the committee?

LINEHAN: We'll ask. Thank you very much. Senator McCollister.

McCOLLISTER: Yeah. Thank you, Madam Chair. And thank you for having so much good service in Nebraska. The schedules into Florida, are those-- those certainly aren't every day, are they? Are they a few times a week?

ERIC FLETCHER: Yes. Yeah. We target the leisure traveler. And so we found most leisure travelers want to start or finish their vacation, you know, on like a Thursday, Sunday, Friday, Monday-type pattern. So we always joke that, you know, you'll never catch an Allegiant flight on Tuesday. So unfortunately, when I came out here yesterday, I wasn't able to fly an Allegiant flight. Got to fly on my Southwest colleague's flight out here. But we think that also just shows the difference. I was a business traveler yesterday, and we are catering to the leisure travelers.

McCOLLISTER: But your flights into Las Vegas and Phoenix are daily flights?

ERIC FLETCHER: Not daily, no. I think they're about four times a week is what we average depending on the season. So we're also very variable depending on the season. So for example, our flights to Orlando, they're very, very sparse in September. You know, back to school time, no one's going to see Mickey. But if you come summer, you know, or spring break, it's a very busy time.

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McCOLLISTER: Thanks, Eric.

LINEHAN: Thank you, Senator McCollister. Senator Groene, and then Senator Friesen.

GROENE: So your terminals are Vegas, Phoenix, Grand Island, Omaha, and a bunch of Florida places. Is the tax in Nevada and Arizona less than it is in Nebraska or more?

ERIC FLETCHER: I don't know what those are offhand. I could follow up and get you the details. I just know it's built into the total cost that we built there. And I can absolutely tell you, there have been discussions I'm having in Florida right now, that in Tallahassee they're considering lowering their jet fuel tax. Last year, Florida decreased it by one-third, and they're considering a further reduction again this year.

GROENE: So on your flights, do you have to fuel on both ends?

ERIC FLETCHER: Yeah. Absolutely.

GROENE: You do?

ERIC FLETCHER: Yeah. Because most of our flights are generally longer. We can't tanker as often as some of the other airlines do.

GROENE: A previous testifier said they load heavy in Texas but you guys probably do the same--

ERIC FLETCHER: We tried to, but with our some of our flights being a little bit longer, we're not always able to. Tanks are only--

GROENE: I just thought maybe you would load it heavy where the tax was less-- the price was less.

ERIC FLETCHER: Yeah. One other thing worth adding is for our type of operation, they were saying fuel and labor are the biggest and it goes-- and it depends on the airline. With us, it is definitely fuel. It's our biggest expense. It's just over 30 percent for Allegiant.

GROENE: So all them flights from Florida are coming to Henry Doorly Zoo, right? It's not the other way around, people from Nebraska going to Florida, is it?

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ERIC FLETCHER: We actually see-- it's about 75-25. About 75 percent of our passengers are flying Nebraska out and about 25 percent are coming in.

GROENE: Thank you. I figured it'd be about that.

LINEHAN: Thank you, Senator Groene. Senator Friesen.

FRIESEN: Thank you, Chairman Linehan. In other airports, are there access fees, landing fees, other fees that make up for the fuel tax or is that generally pretty standard?

ERIC FLETCHER: Most airports have all those fees as well, and we're paying those fees in Nebraska. The way Allegiant looks at it is the planning team, when they're deciding do we put resources to the state of Nebraska or do we put it to another state, they're adding them all up together. So it's not fuel tax in isolation, but they are looking at the total cost of operation. And we have two great airports that Allegiant operates at in this state right now, but this would make those airports look less great because we'd put the fuel tax onto them.

FRIESEN: So we can't really look just at the tax on the fuel as to your cost of doing business here. It needs to be a bigger picture.

ERIC FLETCHER: Yeah. That's-- that's how our planning team looks at it.

FRIESEN: OK. Thank you.

LINEHAN: Thank you, Senator Friesen. Other questions from the committee? So do you have an inexpensive flight to Kalispell?

ERIC FLETCHER: Unfortunately, not from Nebraska yet. But if you're in Vegas or Phoenix, yes. So Allegiant's all point-to-point. We do that to help save costs. We don't do connections.

LINEHAN: OK. Thank you very much. Oh, I'm sorry. Senator Briese.

BRIESE: Thank you, Chairman Linehan. Thanks for your testimony. If this seven cents a gallon we're talking about was passed on directly to your consumers, what would that increase be in airfare on average?

ERIC FLETCHER: So we tried to crunch some numbers ahead of time. The short answer is we're not exactly sure. But what it would mean for

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each Allegiant flight, it would be about \$150. A hundred and fifty dollars is about two seats on the plane. So when we look at it, we say, with our planes, there's two seats all of a sudden that would be dedicated to the increase in the jet fuel tax, one seat that was already kind of fully dedicated to it. So we're saying of about 150-seat plane, there's 3-seats less that Allegiant-- that, you know, literally doesn't have the opportunity to profit from.

BRIESE: OK very good. Thank you. And you indicated that your costs-- or your fuel costs were about 30 percent of your total cost, yet your fares are roughly one-third of the industry average. And they indicated-- or an industry representative indicated that fuel represents about 25 percent of the cost.

ERIC FLETCHER: Yes, sir.

BRIESE: That's interesting.

ERIC FLETCHER: We're very dedicated to cost control at Allegiant so.

BRIESE: OK. Thank you.

LINEHAN: Thank you, Senator Briese. Other questions from the committee? Seeing none, thank you for being here very much.

ERIC FLETCHER: Thank you.

LINEHAN: Other opponents?

SEAN KELLEY: Good afternoon, Madam Chair Linehan and members of the Revenue Committee. My name is Sean Kelley, S-e-a-n K-e-l-l-e-y, appearing today in opposition to LB440 as a registered lobbyist for the Omaha Airport Authority. The Omaha Airport is truly a regional airport. Today, Eppley Airfield has 35 daily nonstop flights. This is double the amount of nonstop flights that were offered just five years ago. Additionally, Omaha is-- it's experienced a record number of passengers, in 2018, of over 5 million passengers total. The Omaha Airport Authority knows airline passengers are very cost-conscious. And being a regional airport, we oppose LB440 because passengers have that opportunity to go elsewhere. And we believe it will lead to increased fares, and those cost-conscious passengers won't-- will find a different airport to fly out of. I'm happy to answer any questions you may have.

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LINEHAN: Thank you, Mr. Kelley. Are there questions from the committee? Seeing none, thank you very much.

SEAN KELLEY: Thank you.

LINEHAN: Other opponents? Are there any other opponents? Anyone wanting to testify in the neutral position?

JON LARGE: Madam Chairman, Senators, my name's Jon Large, J-o-n L-a-r-g-e. I'm the immediate past president of the Nebraska Association of Airport Officials, and I currently sit on their board of directors. To provide some foundation for my remarks today, based on the Department of Revenue's reports of motor fuels taxable gallons and the current aviation fuel tax rates of 5 cents on aviation gas and 3 cents on jet fuel, aviation fuel taxes generate approximately \$1.6 million annually. With no general funds, these tax funds support the operational costs of the Division of Aeronautics, including that of a high-performance aircraft and the-- and the office expenses of the Civil Air Patrol. After those costs are-- have been-- those needs have been met, the excess funds are available to support the state's airports in the form of state grants. Per the 2015, '16 and '17 Department/Division's annual reports, those grant funds have hovered around \$200,000 a year since approximately 2010. So what is the impact of this level of grant support to airports? The answer to that question seems to come from a review of the annual reports of the Department, now Division, of Aeronautics. In the Department of Aeronautics' 2015 annual report, the department noted that, and I'm quoting: federal projects are being delayed or abandoned because the local airport sponsor cannot finance 10 percent of the project costs, and state funds are not available to assist the local airports with the 10 percent. That report goes on to note, and I'm quoting again: Due to state funding shortages over the past several years, airport sponsors have become aware of the shortage/limited funds and are, therefore, no longer requesting state grant funds for their improvements. As a result of the state fund shortage, the Department of Aeronautics has seen a deterioration of the airport system and an increased need for reconstruction due to the delay of timely rehabilitation projects. Following those notes, the department listed 48 projects with unmet funding needs. That was in 2015. In the 2016 annual report, the department restated many of those comments, that federal projects are being delayed or abandoned, that local airport sponsors cannot finance 10 percent of the costs, they are-- that they are no longer requesting state grants, and they reiterated that they

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are seeing a deterioration of this-- of the state airport system. While airport funding needs are not currently reported, were not-- were not reported in the 2017 annual report, the department does continue to track those kinds of things. And the list of projects with unmet funding needs is currently up to 146 projects. Interestingly to go along with that current information, the department lists annual totals of primary entitlement funds that were allocated to Nebraska airports but that airports were unable to use before they expired. Over a nine-year period from 2010 to 2018, it appears that over \$18 million in federal funds were allowed to expire.

LINEHAN: OK. I'm going to need you to stop.

JON LARGE: Yes, ma'am.

LINEHAN: See if we have any questions.

JON LARGE: Yes, sir.

LINEHAN: Senator McCollister.

McCOLLISTER: Yeah. Thank you, Madam Chair. If you're about done, I'd appreciate listening to the rest of your testimony.

JON LARGE: Sure. Let me pick up-- pick up a good place. I think we've made the case that-- that with low levels of funding, we're seeing a deteriorating airport system in the state of Nebraska primarily because local airport sponsors cannot meet the 10 percent match. And we don't have state funds available to help with that. With the seven-- with a seven-cent increase to the-- to the jet fuel tax and based on Department of Revenue's reporting of over 50 million gallons-- gallons in jet fuel annually, at least for the last couple of years, that would generate an additional \$3.7 million in additional taxes. Assuming that the department doesn't have a dramatic increase in their operational expenses, all of that \$3.7 million could go to support capital improvements at the state's airports. You'll note that while-- while I sound-- I sound positive towards this, we're officially-- the Nebraska Association of Airport Officials is-- is testifying in a neutral capacity. While our primary focus is the airports in the state, we have a number of other members. And to be sensitive to them, the-- my organization has discussed the seven-cent rate and-- and-- and what it does. While \$3.7 million would be tremendous, I think we are-- we are very practical and sensible people. And a two-cent increase to-- to the jet fuel tax rate,

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restoring it to 1950's levels of five cents, and five cents would generate \$1 million for the support of capital improvements in the state of Nebraska. That-- that would be generally the end of my remarks, and I would-- I'd be glad to entertain any other questions.

LINEHAN: Thank you very much, sir.

JON LARGE: Sure.

LINEHAN: Yes, Senator McCollister

McCOLLISTER: If I could continue.

LINEHAN: Yep.

McCOLLISTER: Whether it's \$1 million or \$3 million, would that have any noticeable effect on the quality of the regional air--or the smaller airports in the state?

JON LARGE: I think it would. If the department is making statements that they're seeing deterioration in the state's airports because we are-- because we can't meet the match for federal funding, whether it is \$1 million or 3, I think we've increased the ability of-- of local airports to meet that 10 percent match. We increase our opportunities to-- to accept those federal funds and certainly not allowing federal funds to expire.

McCOLLISTER: Would you also say that some of the smaller airports aren't increasing their fees sufficiently to reach some of that fed-- that matching money that they need?

JON LARGE: Generally the small airports that take the greatest advantage of the federal program are not charging fees. Small airports do not charge landing fees. They are generally many times unattended, and there-- there really is little way to account for-- for an aircraft that is landing or departing and might pay some kind of a fee.

McCOLLISTER: Thank you very much.

LINEHAN: Thank you, Senator McCollister. Other questions from the committee? Senator Groene.

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GROENE: I believe out in North Platte, we have like a six- or seven-cent property tax levy for the airport authority. They don't use that money to match?

JON LARGE: I'm sure that the property tax is used to support the operations of the airports and probably is used to provide a portion of their match.

GROENE: And I don't remember numbers. I don't know if it's recently, but you-- if you hit the 10,000 boardings--

JON LARGE: Yes.

GROENE: -- is that number still viable? Is that a measuring stick?

JON LARGE: The 10,000 boardings is a good measuring stick for-- for--

GROENE: Federal money.

JON LARGE: --for an airport that reaches commercial service-- commercial service enplanements. So you're putting-- putting that paying customer in a commercial service aircraft. You reach that 10,000-- 10,000 number, you're going to qualify for \$1 million in federal entitlements rather than \$150,000 that a nonprimary entitlement would provide.

GROENE: That's that-- the number they shoot for--

JON LARGE: Yes.

GROENE: --but that is not a match. They just receive the \$1 million.

JON LARGE: Yes they-- they still have to-- they still have to provide that 10 percent match.

GROENE: So the most an airport-- a small airport can get is \$1 million. When you said we bypass \$13 or \$18 million, I forget what you said, because we couldn't match, that was across the state. And every small airport is capped at \$1 million?

JON LARGE: Not necessarily. If an airport has a-- has a qualifying project that has a high enough priority, I think the FAA is willing to pay for what is justified at a qualifying airport.

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GROENE: But if they have 10,000 boardings, it's automatically \$1 million are available to come up with.

JON LARGE: Well, now we don't want to mix apples and oranges. The 10,000 boardings is only going to apply at commercial service airports.

GROENE: All right. Pretty hard to have 10,000 boardings without a commercial service, isn't it?

JON LARGE: Yes.

GROENE: All right. Thank you.

LINEHAN: Thank you, Senator Groene. Other questions from the committee? Senator Crawford.

CRAWFORD: Thank you, Chairwoman Linehan. Could you speak just on the record of the comparison between Nebraska's investment in airports and then South Dakota, Iowa who have-- who have a five-cent tax?

JON LARGE: The-- the information on-- on surrounding states' investment in their airports comes from a 2015-- 2015 survey that was done by the Nebraska-- by the National Association of State Airport Officials. They had 37-- 37 of the states responded to that survey. Those numbers are completely-- completely reported by those-- those individual states. The way-- the way states fund airports varies across the-- across the United States. I think in some-- in some places, the aviation fuel taxes go directly to support aviation. In some states, those fuel taxes go into the general fund, and then the state makes a general fund appropriation to support airports.

CRAWFORD: Thank you. So it's about-- I think your report then says Kansas is about \$5 million--

JON LARGE: Yes.

CRAWFORD: --South Dakota \$1.7 million.

JON LARGE: Per that-- per that 2015 survey.

CRAWFORD: Thank you.

JON LARGE: Um-hum.

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LINEHAN: Thank you, Senator Crawford. Are there other questions from the committee? Does the-- does the federal government still subsidize flights to-- at one time, I know it was Grand Island, Kearney, North Platte? Is that still?

JON LARGE: Yes, the Essential Air Service program--

LINEHAN: [INAUDIBLE]

JON LARGE: --is still in effect. Yes, and I believe that McCook, North Platte, Scottsbluff, Chadron, and Alliance still receive Essential Air Service funds. Grand Island has grown to the point where I think they're very, very close to graduating from that program. Certainly Lincoln and Omaha do not receive any Essential Air Service funds.

LINEHAN: Was Kearney in that group you mentioned?

JON LARGE: I may not have mentioned them but they are in that group--

LINEHAN: OK.

JON LARGE: --and I believe that Kearney is receiving Essential Air Service funds.

LINEHAN: OK. Thank you very much for being here. Other questions? Seeing none, thank you.

JON LARGE: Thank you, ma'am.

LINEHAN: Anyone else wanting to testify in a neutral position? Good afternoon.

BOB KRIST: Good afternoon, Chairman Linehan and members of the Appropriations Committee, yeah-- the Revenue Committee. I think you've heard a great deal of testimony today that gave you baseline information. And I think there's been some misinformation that's been given to you. I'll let you weed that out. I think that what Mr. Large just gave you is essentially reported by what was the Department of Aeronautics, is now a division underneath DOT. And it's interesting that they have not reported in 2017 on the same situations. My numbers say that there are about \$22 million of federal matching aids that were turned back over the last decade, and you might have legal counsel look into that yourself, \$22 million of federal money that we could have had for 10 percent of that in terms of keeping up our airports. The disparity in tax is overwhelming. Keep in mind that mom

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and pop and ag community who are operating "recip" engines, not small airplanes, but "recip" engines and ag airplanes, who may be using avgas, are paying on average \$1, \$1.50 more per gallon than jet fuel. Go out and check it out. Jet fuel is less expensive than avgas across the board. And it's because of the EPA cleanup fees that are involved with avgas because it includes additives and lead. So the disparity in terms of what taxes are being paid is-- is obvious. I would not propose that we would raise gas-- tax on avgas. I think it would be disappointing for our ag producers at this point. And you can thank Senator Grassley for-- at this federal level, for making sure that avgas and aviation fuel taxes did not go to anything but aviation. That was his bill. And I thank him for that and have personally. I'm here in a neutral capacity, and I don't disagree with Lynne Walz on very many things, helmets maybe, but other than that. But I think this deserves a great deal of study. If you could define for me what the aeronautics fund does, I don't think there are very many of you here sitting here who can. I tried to when I first came into this body, and it took me several years to figure out how it all fit together. But the CAP, that has been tasked to overlook the flooding that's happened, receives their-- their funding from the aeronautics fund. We've had to go to Appropriations several times in the past to ask for that fund to stay where it is regardless of how much money was brought in. And as a perspective and kind of winding down and then I'll take your questions, I've spent my life in airplanes, 15,000 hours of flying time and most of it in small airports. And I can tell you that landing fees will defeat the purpose of getting small-- small airplanes into your airport. Mr. Large, again, is absolutely true in that notion. And the examples that the-- that the director used in terms of Kearney and North Platte and other locations came in conjunction with major economic growth that the Legislature pushed through. You remember in Kearney in 2011 and '12. With that, I'll take any questions you have.

LINEHAN: Thank you very much, Senator Krist. Are there questions from the committee? Senator McCollister.

McCOLLISTER: Yeah. Thank you, Madam Chair. Did you wish to continue, Senator Krist?

BOB KRIST: No, I think my points are pretty clear. If you understand what the aeronautics fund does and you understand how that money is put to use and you understand that all of those projects, like the Blair report Mr. Combs talked about in the past ten years, require a

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10 percent matching formula and you realize that the property taxpayer in that particular area may be burdened with, again, a levy to make that happen and you realize in the prior decade we were giving about \$2.5 million from the state level to the airports to help make that 10 percent, and again, legal counsel can check that-- those numbers, and then we look at what happened just in this past two years with less than \$150,000 per year spread out through all those airports, you see the necessity of that aeronautics fund and the reinvestment in those airport structures. I can tell you that when an airplane lands on a field and says, I will never land there again because the concrete is scalding, you have a choice. You can fix it now or you can repave it later. Fixing it now and doing preventative maintenance is much cheaper in the short haul and the long run.

LINEHAN: Thank you, Senator McCollister. Other questions? Senator Groene.

GROENE: How you been?

BOB KRIST: Good.

GROENE: The avgas, I don't think anybody mentioned or maybe I missed it, how much do we bring in on that?

BOB KRIST: I don't know the number. I'm sure that legal counsel can bring it to you. But that five cents per gallon-- it was five and five, and then it was reduced to five and three. Never quite figured that out other than again giving away the farm in order to get businesses to come in.

GROENE: A lot more gallons of jet fuel or what's the-- what's the mix?

BOB KRIST: Yeah. You're pumping a lot more jet fuel in this state than you are avgas. But another misinformation or disparity that I think you need to realize, I fly jet fuel aircraft. They're turbo props. So everything-- every place that we go in those small airports, we're pumping jet fuel into our airplane. And a lot of that is business, some pleasure, but a lot of it is business as well. So those small airports are pumping jet fuel as well.

GROENE: I'm assuming that the military fuels a lot in North Platte. But they don't pay the tax.

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BOB KRIST: They pay their-- their fuel fund out of the defense fuel fund which is not taxed on a state level. The-- the federal process does not allow them to be taxed on the state level.

GROENE: Thank you.

BOB KRIST: DFAS I believe is an acronym.

LINEHAN: Thank you, Senator Groene. Other questions? But the military pays some fee, don't they?

BOB KRIST: They do. They can-- they charge-- they treat us like a military airplane on one of our contracts. They charge us landing fees for coming in, and if we don't pump a minimal amount of jet fuel, then we have to pay another fee for flowage fee on the jet fuel. And our airplanes are normally not big enough to pump enough fuel to offset landing fees, so we're paying on both ends.

LINEHAN: OK. All right. Other questions from the committee? Thank you, Senator Krist, for being here.

BOB KRIST: Thank you. Thanks for having me.

LINEHAN: Excuse me. Anyone else want to testify in a neutral position? Senator Walz, would you like to close? Let me tell you letters for the record. I misplaced them already. There-- proponents were none. Opponents: Keith Hansen, Allegiant Travel Company, Daniel Shurz, Frontier; Vincent, we already heard from Vincent through somebody else's testimony, Dugan; and, Sean Williams, Airlines for America. Neutral, none.

WALZ: Thank you. I'm going to make this short and sweet because I know how popular I am right now. But I do think it's something that everybody needs to take a look at. I introduced this bill because it is obvious to me and I know it's obvious to everyone of you that we have to raise some type of revenue to main-- maintain the services that we have here in Nebraska. Increasing the jet fuel tax, which I will remind you has not been increased since 1984, was one way to increase that revenue and help pay for much-needed improvements and maintain our-- our rural airports. Airports are vital to economic development. They're vital to our ag business and our health care and making sure that people in Nebraska are-- are being well-- well taken care of. I do have an amendment that would change the tax from ten cents per gallon to seven cents per gallon and would be happy to work

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with the committee on a compromise with that. With that, I thank you for your time and attention. And I would answer any questions that I-- hopefully they've all been answered because I've also learned a lot about this issue today.

LINEHAN: I've learned a lot too. Thank you very much. Are there questions from the committee? Seeing none, thank you very much. Appreciate it. And with that, we bring the hearing of LB440 to a close, and we will open the hearing on LB97. Senator Wayne.

WAYNE: Good afternoon. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13 which is northeast Douglas County in north Omaha. I will say that usually I start fires where I go, but whoever started the fire in here, it is burning up. Ah, man. LB97 will authorize State Highway Commission to issue bonds for highway construction as prioritized by the Build Nebraska Act. This bill would create a fund in which bonds will be stored. The bill caps the amount that-- that can be bonded at \$200 million and stipulates the interest rate not to exceed 5 percent. The bill also mandates that all the bonds took from-- took out of this provision must be paid back by 2037 and that 25 percent of the funds must be used for the development of a federally designed prior-- priority corridors or express high-- expressway constructions. Over the previous interim, I have had multiple meetings with stakeholders not just in north Omaha where I live, but all over the entire state, and the issue of construction seems one that resonates everywhere. To all my conservative friends, they tell me to run a government like a business, there is no better time than right now to issue bonds. I will tell you that every time we go out, we hear about the needs of bridges and constructions. And with the recent flooding, this'll obviously some of their current needs will be pushed back over the next five years to do what some of our temporary and later emergency work that needs to happen in the next one or two years. The average consorts-- construction costs are going up anywhere between 6 to 10 percent annually. I know that because, one, I led one of the largest bond efforts in the state of Nebraska, of \$421 million for Omaha Public Schools. And I also am in the construction industry and continue to see, as a general contractor, those costs rise. We know we need to grow north Omaha. And this was actually generated two years ago with the conversation I had with Senator Friesen who told me about a previous bill by a previous senator who introduced this same similar concept. I went back and did research and found that bill and a copy of that bill and introduced it for the last two years. This'll be my

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third year. The reason why I keep introducing this bill is part of a larger conversation around a bridge that I believe needs to happen in north Omaha. And that bridge is across 16th Street. Across the river in Iowa, there's approximately 2,200 acres that is available for prime development. This type of infrastructure would change not only north Omaha, but west Omaha. In Senator Lindstrom's district and Senator Linehan's district, you guys understand it, there's only one way to get downtown and that's going down through South 680 and going around that way. We can actually alleviate a lot of that traffic. And studies that were done almost 10 to 12 years ago show that if the 16th Street bridge was actually built, you would alleviate some of your time, anywhere from five to seven minutes, to get downtown. It's-- this is our way to help our neighboring states create a megasite in which our state can create-- would benefit. This year and last summer, I should say, I had the Department of DOT come down, and we had breakfast at Harold's Cafe on 30th and State. And I always sit in a booth when I have these conversations, so they can look past me out on 30th Street. Within a half hour, roughly 50 to 75 semitrucks went past. The reason is when you look downtown, there's only two ways to get out of downtown, through downtown or through my district which is north Omaha, Highway 30-- or Highway 75 which is actually 30th Street and is in a residential area. We have multifamily housing units on both sides. We have stoplights, and it's a very, very unsafe condition. And I literally know there was 50 to 70 trucks because we counted them as they went by, and I just kept marking off. And they couldn't believe the traffic. This is just an idea and one way that we can continue to grow Nebraska, grow our infrastructure, and give options for our Department of DOT and the Governor to determine how best to build. Now I know last year, there was some opposition testimony regarding how do we pay for it. Well, the simple answer is in my next bill, LB338, which we have not talked about yet, that'll be the next hearing, where there's an increase in our wholesale and gasoline tax which is averaging about \$41 million per year according to Fiscal Office. We can easily pay down those bonds by combining both of these bills and at least give-- like I said, I would like to see it to go to a bridge, but if not, we can at least give the state of Nebraska the ability to bond more so than they have right now which is only \$50 million. And that wouldn't-- and just think about it in the perspective of building a highway or reconstructing a highway. On average, it's about \$1 million per mile. Right now, we are out-- or have to replace about 300 miles just from the floods. That's got to come from our current budget. I'm just trying to give the ability to give some flexibility

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to make sure we can get jobs done. And with that, I will answer any questions.

LINEHAN: Thank you, Senator Wayne. Are there questions from the committee? Senator Friesen.

FRIESEN: Thank you, Chairman Linehan. So when you're looking at this kind of infusion of money into the Transportation Department, do you think there's contractors enough that we would handle this? We've ramped up construction in the state already considerably with the gas tax increase that we did. Is this feasible now or is this-- is this just going to speed up projects, and ten years from now, there won't be any work?

WAYNE: Well, I think it's always a concern of long-term construction, and to be able to fill workers, and keep bodies in the state. And that's just not in construction, but all industries. But as it relates to particularly construction, this necessarily wouldn't be an influx of cash. I'm willing to work with the committee to extend when these bonds have to be done. But this is just giving the option to-- to do more projects, yes, to make it-- to prioritize what those projects are because there is an influx. But I do think there is enough workers and ability to increase maybe not the total \$200 million, but what if they need an additional \$50 million. I think there's enough workers to do that. And this just gives the flexibility of that.

FRIESEN: So that-- the \$50 million you talk about has been available for how many years?

WAYNE: I don't have the answer to that.

FRIESEN: Nobody's ever used it, so if we put \$200 million out there, what is it-- what is it going to-- are we going to force them to use it?

WAYNE: But well, no, not necessarily force them to use it, but when we did Highway 34, that may be the wrong highway, out by down south of Plattsmouth, we-- we had to defer projects that we wanted to do in the rest of the state to build that bridge. And what I'm trying to do is make sure that there's enough, that we don't have to-- whether the Governor or DOT decides to bond, that's totally up to them, but I do think there needs to be more tools in the toolbox.

FRIESEN: OK. Thank you.

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LINEHAN: Thank you, Senator Friesen. Other questions from the committee? I'm sorry, Senator Wayne, I don't understand the 16th Street bridge.

WAYNE: So if you drive on 680 and you cross over into Iowa, there's the first exit. Exit 1 is a nonexit. It turns into a dirt road. It's just an exit. Historically for the last 60 years, actually since Omaha and Council Bluffs was founded, there was always going to be another bridge across Omaha over to Iowa to connect to that exit. That way Florence and those places can stay the same, the neighborhoods they were meant to be. And it wasn't until the late '70s, we thought we should change that by putting 75 through the middle of north Omaha.

LINEHAN: Oh. I know [INAUDIBLE].

WAYNE: And then at that point, it was stopped, believe it or not, at District 13 when it used to be District 13 right-- right before you got into Florence, and that's where it kind of died. And now we go through a neighborhood. Well, the original idea before the '70s, where we were going to run close to that same corridor down-- down 16th Street, across the bridge of the Missouri and connect there, so you can go to I-29 or to 680. And we've never did it. Multiple times it been-- the issue has come up. The city of Omaha, the chamber had brought it up again in 2007-2008. There was an election. Mayor Stothert took over, and then we had the recession and it kind of went to the wayside. It's not a high priority. But this bridge has always been a long-term plan for MAPA. And this year, part of my four bills that I'd say will change north Omaha is one LB129 which is a study this year for \$200,000 to give to MAPA to go back and do a feasibility study on it. There was one that was done ten years ago, and they projected between Omaha and Council Bluffs there would be an economic impact of about \$1.7 billion if we were to develop that bridge and develop both sides. We had to look no farther than just a few years ago when Toyota Mazda was looking for a megasite and we couldn't find one except for south south Sarpy. And the issue there was in south south Sarpy is we couldn't populate and provide enough workers to fill that because our public transportation system is in a shambles. So I always take the position it's easier to cross a bridge than it is to take public transportation out to 144th and 680. So I can give you maps. But this year hopefully out of Appropriations we can get this to DOT and map it and come up with a feasibility study. So with that, I'm willing to amend it to be bigger than just what I-- what I thought it should be. But at the time we drafted this, two years ago, there was

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still the south way-- the south mill project, the project up by Fremont for Costco, the new development up there, and then the bridge. And that's why I included the word expressways because if we're going to grow, we have to do it along ways that logistically are possible to interstates and other highways that can hold the traffic. So I guess that in my district right now, Chair-- Chairwoman Linehan, 1,100 semis leave downtown. We can't hold anymore. So if you look at the area by the airport in Omaha, we couldn't hold the transportation system or any other new business there because we have no-- we don't have nowhere to put them. And I have to remind the committee who aren't from Omaha, ten days out of the year, you can't drive downtown, you can't send a semi downtown because of the College World Series. So all that traffic is diverted through my neighborhoods, and they're truly neighborhoods. We need another way. If we're going to truly grow Omaha, particularly north Omaha, we have to remove the land lock that it's in.

LINEHAN: Thank you, Senator Wayne. Other questions? Senator Groene.

GROENE: Senator Wayne. Thank you, Chairman. So is this project on Department of Roads' long-term plans or does Douglas County or the city of Omaha, is this a project that they've been-- been advocating to the Department of Roads or?

WAYNE: In 2008, for those in Omaha, in 2009, when the mayor race happened, there were actually ads from Jean Stothert against-- at the time, Jim Suttle saying he wants to do job development in Iowa because this conversation was growing so much about building in Iowa for Omaha jobs because we don't have a megasite. But the fallback was there were a lot of development around the airport. So yes, it was big, but then the recession hit. And as we looked at infrastructure, we just didn't do it. And the reality is there's not enough money to go around. And I would like to encourage this conversation to take place.

GROENE: Now wouldn't-- wouldn't Iowa have to be a partner and share half the price? Are they-- has Iowa discussed something like that?

WAYNE: Yes. So actually we've met with multiple representatives over there. They would be a part of the MAPA study, again, that was done in 2008.

GROENE: Could you tell us what MAPA stands for?

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WAYNE: MAPA, Metro-- I should know this, Metro--

LINEHAN: Metro Area Planning Association.

WAYNE: --Area Planning Association.

GROENE: That's an Omaha organization?

WAYNE: Yes. So each-- or there's multiples throughout the state. But that's just happened to be the one in Omaha. But it also crosses into Council Bluffs because it's not state-- state line driven. So there's multiple conversations about that. And that's why this year-- the first year we tried the bridge and also tried a port authority if you remember that bill. That was kind of interesting. And Senator Friesen remembers me talking about this, but there's are conversation. And actually as chairman of Transportation, I thought this bill would go to Transportation. So last year, Senator Friesen attended a chamber meeting in which we talked extensively about this particular project. So it's gaining momentum. But it comes down to funding.

LINEHAN: Thank you. Thank you, Senator Groene.

GROENE: I'm done.

LINEHAN: OK. Thank you, Senator Groene. Other questions from the committee? Seeing none, thank you.

WAYNE: Thank you.

LINEHAN: Are there proponents for LB97?

LASH CHAFFIN: Good afternoon. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n. I'm a staff member at the League of Nebraska Municipalities, and I'd like to offer our support for LB97. I truly appreciate Senator Wayne's interest in the transportation system. As-- as everybody at this table knows, the needs are intense. And-- and obviously for weather reasons, the needs are going to get more intense. And any tool in the toolbox is something that can be utilized and hopefully will be utilized in whatever format it takes. And I guess, Senator Friesen, your question about contractors is an interesting question. And I've had the same exact discussion with half a dozen city public works officials in the last week, and the-- they're-- they're starting to fear will there be enough contractors to deal with our flood damage. And more than any time in our country's history, I think the-- the free market dictates pricing. The free

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market dictates staffing. The free market dictates availability. And I suspect that, because of the floods, there will be new contractors in this state. I mean there's a finite group right now who can do road construction. You know, I don't know what the number is, but I mean that-- that makes sense. Because of the flooding, there will be contractors coming in from throughout the Midwest. And maybe this is the perfect time to jump on that-- that-- that-- the fact that they're here. Keep them here with-- with some infusion of money and projects that they can-- they can work on. And again, it's-- free-market pricing, it's tricky. And anybody who's dealt with pavement knows it changes from day to day. If-- if-- if there's a lot of people who have available staff, price goes way down. If suddenly everybody's busy, the price goes up. And I think that we're going to see a lot of that in the next-- next couple of years in Nebraska. Thank you. I'll certainly answer any questions.

LINEHAN: Thank you very much for being here, Mr. Chaffin. Are there questions from the committee? Senator Groene.

GROENE: Wouldn't you say that building a bridge across Maple Creek is not the same construction company that built the one across the Missouri River?

LASH CHAFFIN: It is-- it is not the same construction company

GROENE: There are only a few--

LASH CHAFFIN: Correct.

GROENE: --a few-- Kiewit and a few others.

LASH CHAFFIN: There are and yeah, I think that's-- that's the exact-- Senator Groene, that's the exact fear that a lot of the cities are going to have because their-- their projects are big projects often. And these-- these bridges that are going out, there's-- you know, the guy with three backhoes and a cat, he can't-- can't do that project. That combined with if you've seen these--

GROENE: You're talking about the Missouri River one, aren't you?

LASH CHAFFIN: The Missouri River or any bridge-- the Missouri one is even more complex as you indicated. And I'm not sure what form LB97 might take, but if that's what it's for--

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GROENE: Come out to western Nebraska and watch my county bridge crew with two backhoes and a truck replace a bridge. They'll do it.

LASH CHAFFIN: Sure. They're awesome but that's not the only way-- although combined if you've seen any of the drone flyovers, there are dozens of those earthen dams that are out. Combine-- those-- those little bridges, that's generally going to be a lot of the same contractors who are going to replace those earthen dams. It's not a simple project. There's going to be a lot of work for construction contractors in the next few-- few weeks. And I don't know who owns those dams. Are they privately owned? Are they NRD-owned? Are they irrigation district-owned? But you just look at that footage, and those things are long gone.

LINEHAN: Thank you, Senator Groene. Other questions from the committee? OK. Thank you very much for being here.

LASH CHAFFIN: Thank you.

LINEHAN: Are there other proponents? Is there opponents?

KYLE SCHNEWEIS: It's my day to be opposed.

LINEHAN: Yeah. Popular guy.

KYLE SCHNEWEIS: Chairwoman Linehan, members of the committee, I'm Kyle Schneweis, K-y-l-e S-c-h-n-e-w-e-i-s, director of the Nebraska Department of Transportation appearing to offer the department's opposition. The legislation would allow the State Highway Commission, at the request of the department, to authorize the use of \$200 million in bonds for the purposes of accelerating highway construction. The bill would also direct the department to pay off such bonds with revenues collected and deposited within the Highway Cash Fund. Using bonds as the primary means to fund infrastructure would be a fundamental shift in how we pay for transportation projects in Nebraska. Taking on debt obligation and committing future dollars would be counter to Nebraska's long history of pay as you go-- of a pay-as-you-go approach for transportation which I believe has served us well. The transportation funding model requires a consistent and steady hand. And in Nebraska, we've been fortunate that our state has taken that approach to road building. In addition, the Build Nebraska Act and the Innovation Act have been able to build for the state's future by dedicating resources to completion of the state's expressway system and other critical infrastructure projects. I talk a lot about

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the need to be steady and that steady-handed infrastructure. There's also a counterbalance to that in the need to have flexibility. And I'll give you just a few examples. We recently accelerated a project in Fremont because of some development that was occurring there, and that flexibility that we have now, because we don't have a lot of debt obligation, allowed us to accelerate that project. We-- we've received about \$60 million in federal grants in the last two years that require a state match. That requires that flexibility. So I talk a lot about being steady, but we have-- like flexibility is super important in order to deliver these projects as well. And then the flooding was mentioned. That's another place where we need that flexibility, and people ask me a lot because they know I'm from Kansas. That's where I came from four years ago. And we used debt a lot in Kansas. And today, the state of Kansas, KDOT, their debt service, every year the annual debt payment, \$208 million is what they pay in debt service every year off the top before they build any projects. Their budget's not that much bigger than ours, a little bit bigger, not much bigger. I can't imagine we would be getting much done here in Nebraska if we had \$200 million in debt service. Now it didn't start that way. It built up. But and I'm not a big slippery-slope fan-- argument fan. I think that's sort of a lazy argument. But in this-- in this case in Kansas certainly, they're in a place where I'm glad we-- we are not in Nebraska. So with that, I will answer any questions you have.

LINEHAN: Thank you, Director. Whoa. Senator Friesen and then Senator McCollister.

FRIESEN: So if something like this was in place with all the flooding that had happened, I mean I know there's going to be a little bit of a cash crunch--

KYLE SCHNEWEIS: Yeah.

FRIESEN: --coming up here. With the flooding and all the damage, the bridges that are taken out, how-- because-- is this an answer for some of that or is-- are you, with the flexibility you talked about, are you-- are you good?

KYLE SCHNEWEIS: Well, it's early still. I'll give you just a sense of where we are. There have been over 2,000 miles of highways closed in the last two weeks. That's 20 percent of our system. That doesn't even account for the blizzard out west. If you count the blizzard on I-- in the Panhandle, we have had a third of our highways closed in the last couple of weeks which is a staggering number. We are down, as of this

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morning, to 231 miles. It's made a lot of progress. Those 200 miles-- 200-plus miles, a lot of them are going to require some repairs, some reconstruction. There's a lot of ins and outs, as they say, to how we're going to figure out how to pay for this. There's the FEMA side. The Federal Highway Administration has some very great resources to help us. Some of that we can get straight in direct cash right away. It's not even reimbursable like many FEMA programs are. So when we're having those conversations. And then ultimately we expect that some of the more permanent solutions are going to go on for a while. I am worried about cash flow, to say that I'm not-- I mean it's something that if you-- if you get past trying to get the roads connected, how do we make sure the money works and flows is the number one concern. But we do have some flexibility because of the way that we've-- we've had that pay-as-you-go approach. And so I don't think that bonding is something we're going to need to be able to do that. As we list out our options and start exploring it, it goes up on the board. We have \$50 million in bonding authority as you know today. But it's not something that we're considering at this time.

FRIESEN: So you're saying some of the federal reimbursement could come quickly because I mean I've heard sometimes you're waiting two or three years.

KYLE SCHNEWEIS: Correct. Correct. Yeah. And I think I'll answer your question then a quick aside. So some of it can come very quickly. They have what's called the emergency-- or quick relief funding-- release funding. And we are going to request \$40 to \$50 million in that and that just comes directly as cash right away to get you started because there is an understanding that cash flow's a challenge. I'll tell you, we know it's a challenge for counties too, cities. And so we may turn over much of that to the cities and counties if we can, for their federal aid-eligible routes, because we know how much of a bind they're in. And we think we may have some flexibility to be able to handle our end. But we don't know yet. We're still assessing. The situation changes. There's still a bunch of miles underwater. And then you'd be-- you wouldn't be surprised but you get out and you assess the damage afterwards. And it looks like we're clear, but we need to have one bridge guy come in and check this thing. And then you find out, wait, that's not just a repair project, that's now a full bridge replacement. And sometimes it goes back the other way as we get our engineers in there and try and find creative solutions. And I think just, if I could just take a quick aside on the flooding, I think one of the things that started to happen in the last few days is there's a

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lot of rumors that are starting to happen. And you're probably hearing it in your districts that, you know, this road's going to close for three years. This project that we were going to do that everyone's waited so long for is now delayed. None of those decisions have been made. We are going to be opening these highways very quickly. As they-- in hope-- my hope is that we'll have all of them restored in a matter of months if not weeks. And so we've got contractors on-site. We're doing the work. So if you get those kinds of questions, it's too early to say anything like that. But we're starting to have to answer a lot of those kinds of things.

FRIESEN: OK. Thank you.

LINEHAN: Senator McCollister Thank you, Senator Groene-- Senator Friesen.

McCOLLISTER: Yeah. Thank you, Madam Chair. And thank you for being here. What is the usual highway funding formula during normal times with the federal government?

KYLE SCHNEWEIS: So we-- we receive about \$315 million in federal funding every year. It comes largely from the federal fuel tax, 17 cents a gallon. It comes to-- it's a reimbursable program, so we spend the money and then-- and then apply for reimbursement. It comes pretty fast.

McCOLLISTER: And what percentage--

KYLE SCHNEWEIS: Of our-- of our total program? Our total budget is about-- it fluctuates depending on how much we're saving to spend on the big projects. But it's safe to say it's \$900 million or so is our total budget.

McCOLLISTER: So the federal government supplies roughly a third?

KYLE SCHNEWEIS: Roughly a third, yeah.

McCOLLISTER: But with the storms, aren't they going to supply nearly 75 percent of the reconstruction?

KYLE SCHNEWEIS: Well, so in some cases, yes. Some of it's reimbursable up to 100 percent. So Federal Highway Administration, U.S. Department of Transportation, they have emergency relief money. And for temporary fixes, fixes that are done within 180 days, 100 percent funded by the federal government. When you get into projects that are longer than

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that, after 180 days these are more permanent solutions, then it becomes an 80-20 proposition. And it's not as-- it's not always a one-for-one because, in some cases, we may have a bridge or a piece of pavement that's washed out that was going to be under construction in the next couple of years anyways because of, you know, maybe the pavement needed work. So some of those things we can balance in our cash as we-- as we move along just by moving projects around. In other cases, we might have a brand new expense we weren't planning for that we have to find a way to fit in.

McCOLLISTER: So a county bridge could very well get 75 percent funding from this federal government.

KYLE SCHNEWEIS: If it's federal-aid eligible which not all of the county bridges are, then it's-- it can be 100 percent if it's a temporary fix and 80 percent if it's-- if it's a permanent fix.

McCOLLISTER: Could I characterize that as a windfall?

KYLE SCHNEWEIS: I don't know. Well, I guess it depends on how big-- how many-- how much money we're talking about. Why do you ask if I-- if I could ask you? If I don't get to ask questions, I understand now.

McCOLLISTER: Yeah. I don't-- I-680 that goes from north Omaha to the Interstate 29, you may recall that was flooded--

KYLE SCHNEWEIS: Um-hum.

McCOLLISTER: --five or six years ago as well. Do you know how long it took for them to put that road back into condition?

KYLE SCHNEWEIS: I wasn't here, so I remember having to drive through Nebraska to get to my parents in North Dakota but--

McCOLLISTER: Well, I know it was 60 days.

KYLE SCHNEWEIS: Sixty days. OK.

McCOLLISTER: So there's a high bar for you to match up.

KYLE SCHNEWEIS: Measure up. Yeah. Well, and one-- one of the things I've been communicating is we are used to flooding, periodic flooding. It happens. You get a road, you get a bridge that washes out. It happens. The scale that we're dealing with is the challenge. We've got-- so it's 200 miles all over the state. That's the challenge. And

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so trying to-- to prioritize and come up with solutions to-- to fix those many-- that many problems at one time is the challenge. If it was one, it'd be a lot easier.

McCOLLISTER: Well, with my legislative district in Omaha, many of my constituents use Dodge Street--

KYLE SCHNEWEIS: Um-hum.

McCOLLISTER: --Maple Street, and Center Street. Can you tell me which of those streets--

KYLE SCHNEWEIS: Two of which are closed.

McCOLLISTER: Yeah.

KYLE SCHNEWEIS: Yes, sir.

McCOLLISTER: All three are closed?

KYLE SCHNEWEIS: I've been to Dodge Street. That pavement dropped about three or four feet on about a probably half-mile stretch. It's amazing, the damage. And the Center Street Bridge is probably a full replacement.

McCOLLISTER: So you're probably not prepared to give me a time schedule? [INAUDIBLE]

KYLE SCHNEWEIS: Soon. Soon. One of-- one of-- one of the biggest challenges we have is people want to know, I mean we-- information, and we want to make sure that we're communicating what we know as soon as we can. We are still in the fact-gathering stage on those. In fact, the day I went to the Center Street Bridge, I stood there with the district engineer and he said, all this is is a report-- replacement of these approaches. We throw some dirt. We put some pavement. The bridge is good. And by the time I got back to my office an hour later, he told me, I just talked to the bridge guy who got the analysis back, and we think we have to pull the whole thing out. So those-- that's how it's changing. Now just because we think that, doesn't mean we can't find with a creative way to try and save the bridge. And so our guys are trying to do that now. We've got contractors on-site. In fact, on that bridge, Constructors, I think, Inc. from here in-- here in Lincoln is on-site already. They were-- they were mobilizing when I was there on Friday.

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McCOLLISTER: That's great.

KYLE SCHNEWEIS: So we're moving fast.

McCOLLISTER: Well, thank you very much.

LINEHAN: I think just-- I think you're talking about the Center Street Bridge at 216th, right, or 220th? Not in my district. Or is there one in John's-- in Senator McCollister's district?

KYLE SCHNEWEIS: That's the only one I know of. I'm not sure if it's 216th or 220th or which district it's in.

LINEHAN: That's OK. That's not your job. But I just-- it is-- it is very-- it's very troubling because the amount of traffic on 204th which I've talked to you about before is now. It is state-- it's a problem.

KYLE SCHNEWEIS: We're seeing that.

LINEHAN: And when you get done with this crisis, then you can--

KYLE SCHNEWEIS: We're seeing that. We're seeing in Highway 12 in Niobrara, people have an hour detour. We've got to get this stuff fixed.

LINEHAN: Senator Groene.

GROENE: So the amount of maintenance that was done the last-- on projects the last couple of years amazed me that you had that many people in the road construction business that you hired. The interstate was a mess, too many people out there. But anyway my question is this. You don't have-- this isn't a football team, you got a whole bunch of contracts sitting on a bench waiting for these jobs. So we got all this new work. So are you pulling-- are you forgiving-- I'm sure you have contract dates that you expect things to be done. Are you telling contractors, you pull off of these projects or we're going to-- my super two-lane going through 83 going through North Platte, you're going to pull those guys off and shift those contractors over to this emergency work. Is that what you're doing?

KYLE SCHNEWEIS: So case by case, we-- and-- and the first thing we're looking at after the cash, making sure the money works, is the-- the mobility for folks. And so if we've got a project that was scheduled to start April 1, much of the construction season starts April 1, but

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it's now the detour route for something that's closed, we're not dumb enough to close that one too. We-- we got to keep that open. And so those are the thing-- that's going into account. The next piece is contractors, understanding who has work and where we need it more-- where it's most needed. And so in cases where we have contractors going to do emergency work for us--

GROENE: You don't have to bid that, is that correct?

KYLE SCHNEWEIS: We had-- some of it, we haven't-- the fast-acting ones, we do not bid. It's based on who's on-site, who can get their quickest, who has the expertise that we know in this area. We have some authority to do some contracting that way. We do expect, as we get a little further out, we will probably do some accelerated-bid projects just so we can protect the taxpayer dollar. Normally it's 21 to 30 days for an advertisement. We can get that down to a few days. [INAUDIBLE]

GROENE: My assumption is you keep a cash reserve.

KYLE SCHNEWEIS: We try to run very hot at the DOT, and that's on purpose. We try to not have money sitting on the side to-- to-- that could be used to get projects going. I've worked in other states, states that have \$600 million, \$900 million that frankly they wish they could spend faster. We don't have that problem in Nebraska. We spent it down. We probably have, because it's winter, we're coming out of winter, we might have \$100 million in our cash flow right now. But as we get into the summer months, sometimes that thing gets down to 10, 15, and that's the plan. So we don't have a big cash balance.

GROENE: One last question. You haven't been here that long. Has the state of Nebraska, the Legislature ever dictated to the Department of Roads a project?

KYLE SCHNEWEIS: No. And I think there's some there's some good precedent set that that's not the way that we-- we've-- we've managed transportation projects. We have a very good, robust process for selecting projects. It's based on engineering, safety, trucks, traffic, but it's also based on community input and based on economic impacts. And we--

GROENE: So like a 680 project years ago, that would have been done by engineers and the Department of Roads saying--

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KYLE SCHNEWEIS: Correct.

GROENE: --we need to-- flow of traffic. We need to do the 680 project.

KYLE SCHNEWEIS: Correct. And I believe that in the constitution, there's some language that says that's how it should be handled. I will say, you know, I've had conversations with Senator Wayne on his project. He has my attention. I think we need to be thinking about his project. I've talked to the DOT director in Iowa. He wasn't aware of it, but that doesn't mean that he did-- he won't find it important once he learns about it. There is a project selection process. I think we need to cooperate with MAPA and senator and all-- all the stakeholders and find a way--

GROENE: And Douglas County and the city of Omaha comes to you.

KYLE SCHNEWEIS: Yes. Yes. And-- and-- and I'll tell you, two years ago, when we did our last round of project selections, that's when we selected the-- the super two and others, I didn't hear about that project when I was at that-- the Omaha meeting. So maybe it was discussed and it didn't rise up to the point where I noticed it, rose up to our list. But certainly I see the need for it. I see the-- see the value of it. It's something we need to consider.

GROENE: So you don't take in economic activity?

KYLE SCHNEWEIS: We-- we-- we do.

GROENE: You do?

KYLE SCHNEWEIS: Yeah. We have-- we run economic models on all the big projects like that. For us, it's-- a lot of time it's access to markets and things like that, travel time savings. You can save money on fuel, saves money on time. It all goes into it. Yes, sir.

GROENE: All-- all in the model?

KYLE SCHNEWEIS: Yep.

GROENE: Thank you.

LINEHAN: Thank you, Senator Groene. Senator Kolterman.

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KOLTERMAN: Thank you, Senator Linehan. Thanks for coming today, Mr. Schneweis. If I have a priority, can I bring a bill and ask you to get it done like Highway 81?

KYLE SCHNEWEIS: That would be my-- it would be my strong preference that you did not. As I mentioned, I think we have a pretty good system. And you know, it's technical, but it-- but input matters. You know, I say this a lot. We can make decisions based on traffic all we want. We need to understand how these projects affect communities. This is a great example, the way that Senator Wayne described this project. Model is not necessarily going to always capture that. And so some of those things do matter. I don't think it's why you pick a project, but it should go into the conversation.

KOLTERMAN: I'm a-- I'm a firm believer that we should do what we can to help Omaha, especially north Omaha. But I can tell you, 81's been unfinished for 40-some years, needs to be finished.

KYLE SCHNEWEIS: Yeah. I'm-- I'm-- I'm aware of it.

KOLTERMAN: Thank you.

KYLE SCHNEWEIS: I'm frequently reminded. Yes, sir.

LINEHAN: Thank you, Senator Kolterman. Other questions from the committee? Senator Briese.

BRIESE: Thank you, Chairman Linehan. Thank you for being here, sir. Appreciate that. And just so we're clear here, the \$208 million you talked about in Kansas off the top, that does represent an investment in infrastructure, right?

KYLE SCHNEWEIS: Yeah. Absolutely. Yeah.

BRIESE: And how many other states utilize a pay-as-you-go approach to highway construction versus the bonding approach?

KYLE SCHNEWEIS: To my knowledge, there are five. And I'm quoting another DOT because I was in-- at a recent conference and they said, you're one of the five. Five what? Five of the other pay-as-you-go states.

BRIESE: So essentially, 45 other states utilize bonding for infrastructure.

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KYLE SCHNEWEIS: Yeah. It's somewhere in there.

BRIESE: And I heard you mentioned something earlier about a cash flow crunch.

KYLE SCHNEWEIS: Yeah.

BRIESE: What about the concern that a cash flow crunch here on the part of the state is going to leave some very needed projects undone because of our focus on some of the damaged highways and bridges and infrastructure?

KYLE SCHNEWEIS: So and-- and I appreciate the question. So we are, at this time, not ready to comment that there's any projects that will be delayed, especially the kinds of projects that we're talking about here, these big capital improvements. I get asked about the Fremont project, the south Beltway, the Heartland Expressway, the 275 corridor, these are projects that we've been at for a long time. We need to find a way to get those projects done. My hope is we can find a way to balance this through the preservation work which makes up about \$400 million of our construction program every year by offsetting and moving some of those projects around. We won't know until we get a little further down the road. In a couple of weeks, a month or so, I'll have a better answer for you.

BRIESE: Sure. Appreciate that. You know, due to the damage and, you know, taking some circuitous routes wanting to get to Lincoln here a couple of weeks ago, I found a highway that I couldn't believe what condition it was in. I told my wife, it's one of those highways it probably will continue to get pushed back--

KYLE SCHNEWEIS: Uh-huh.

BRIESE: --especially in light of probably a reprioritization.

KYLE SCHNEWEIS: Was it-- it was a state highway?

BRIESE: Sure. Yeah.

KYLE SCHNEWEIS: Senator Friesen might know which one it was, but yeah. We have a couple bad ones, yeah.

BRIESE: But anyway-- Sure. That would be my concern that cash flow concerns are going to lead to putting off a lot of needed investment.

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And you know, I farm. And out on the farm, I have a cash flow crunch, I go to my banker.

KYLE SCHNEWEIS: Well, give me some time to come back and report to you how it's-- how it's looking. I'm-- I'm confident between the federal reimbursements-- it's more of a flow-of-cash problem than I think it is a total cash problem.

BRIESE: OK.

KYLE SCHNEWEIS: And at least that's where-- that's what I'm assuming at the moment. Although you know, we're being very cautious.

BRIESE: OK. Thank you.

LINEHAN: Thank you, Senator Briese. Any other questions from the committee? Thank you very much, Director, for being here. Appreciate it. Other opponents? Is there anyone wanting to testify in a neutral position? Senator Wayne, would you like to close?

WAYNE: Thank you. I'm not sure how many times the director of the Department of Roads gets to come in, especially during this time of emergency. So he was in Appropriations right before my hearing over there, so I'm glad I brought him to your committee too. No. But he has been great at feedback. And let me be clear, this bill is introduced to keep this conversation started about a bridge. And now, I think it might expand to things that I've seen across the state with these recent environmental events that maybe opens the door for wider issues, especially if there is maybe a cash problem. I just want to create more tools for them to be able to do their job. But while I have this committee, I want to say, I am going to print out some clearer copies, since I'm here for two more hearings, that I'm going to pass out, probably in a later hearing, about what I'm talking about, the vision for north Omaha. And while there's four bills that are extremely important to me, LR14CA, LB88 and LB86 which this committee put out, LB87 and LB129, they all go into the plan that I'm talking about for north Omaha. That's why this year, I'm willing to do whatever it takes to get these bills passed. This is one bigger issue of a bridge that has to be done. And the more that I can keep this conversation-- and I'm glad it's not in Transportation this year because they heard it in Transportation two years ago. We need to start talking more to these senators about how to grow north Omaha.

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And this is one critical infrastructure that we need. And this is just one tool that can help get that done. Thank you.

LINEHAN: Thank you, Senator Wayne. Letters for the record: proponent, David Brown, Greater Omaha Chamber of Commerce; Wendy Birdsall, Lincoln Chamber of Commerce; opponents, none; neutral, none. And with that, LB-- the hearing on LB97 comes to a close, and we'll open the hearing on LB338, also Senator Wayne's bill.

WAYNE: Thank you. Good afternoon, Chairwoman Linehan, members of the Revenue Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District number 13 which is north Omaha and northeast Douglas County. LB338 would set a floor on the average wholesale price of gas which is used to calculate the tax rate on gasoline at \$2.44 in the state revenue. This would, in effect, translate to 3.2 cents per gallon of tax. Statewide this would generate over \$38 million next year as you see in the fiscal note. This is a slight change from the bill that was introduced to fill a few-- a few years ago by Senator Deb Fischer. And my understanding, in recent conversations over the last couple of years, this is a bill that, in the concept, she supports. As it relates to the floor, no-- as it stands, there is no floor price for tax purposes which generates frustrating revenue inconsistencies as municipalities attempt to forecast revenue streams. This bill would generate an additional \$7.8 million per year for Nebraska-- at least, per year for Nebraska municipalities for work-- roadwork. The city of Omaha would receive roughly 27 percent of that. And I do want to point out, Senator McCollister, since you and your district and my district interchange between the most unimproved streets in the city of Omaha, this bill would also include a priority of doing unimproved streets. Doesn't make it a mandatory, but it puts a priority-- priority on them to at least try to address it with the additional tax revenues that come from this. So we're trying to solve some of those problems. And Senator Friesen will recall driving through my neighborhood, it literally looks like we're in a third world country and have to have made-- major jeeps to get around on regular streets with some of the potholes and unimproved streets we have. As the states-- Nebraska-- as far as the state agencies are concerned, the Nebraska Department of Transportation receives 66 percent of the revenue generated from this tax. Additional funds will be used to advance the agency's backlog agenda. With the damage that's caused from the recent flooding, I think this would definitely help with some of their cash flow issues. I met with Senator-- I'm sorry, Mayor-- Mayor Jean Stothert on this

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issue and the city council who both expressed their frustrations with since the overall gas percentage prices have dropped and the amount of revenue lost in the last couple of years. This is important to me for many reasons besides the consistency, but I think it's a way for us to also generate money to our local-- local cities and counties. And I am willing and able to accept any amendment that would require them to offset their local taxes on that. So this could be a property tax relief bill in some form, and I am willing to entertain that. And with that, I'll answer any questions.

LINEHAN: Senator McCollister.

WAYNE: Not everybody at once on this one.

McCOLLISTER: Thank you, Madam Chair. Senator Wayne, you're aware that we currently spend .25 percent of our General Fund on road construction?

WAYNE: Yes, I am.

McCOLLISTER: You have any idea how much money that generates?

WAYNE: I do not off top of my head.

McCOLLISTER: Do you think it would be feasible to divert some of that money to some of the unimproved roads in Omaha?

WAYNE: I am all for unimproved roads getting improved. Yes. I'm all for that. If you don't live in Mister-- Senator McCollister's district, you won't understand how truly unimproved streets we have in the middle of the city.

McCOLLISTER: Thank you for your sage comments.

LINEHAN: Other questions from the committee? Senator Friesen.

FRIESEN: Thank you, Chairman Linehan. Have you thought any at all about electric vehicles? I mean as-- as the market has started to change, more and more companies are pushing electric vehicles out there. Right now, I think it's \$75 registration fee that we put on electric vehicles. So that's-- you know, if we're going to start messing with the gas tax, we need to start looking at the electric vehicles that are out there, the hybrids. Should they be taxed at different levels or would you be willing to look into that?

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WAYNE: I'm willing to look into that. I think that's a broader conversation. As we grow, I think we will have to tweak the gas tax to figure out how to accommodate more electric vehicles, vehicles that are more efficient. But this issue happened years ago. When the gas tax was originally passed, they moved it to a sales tax. At the time, they thought \$4 per gallon, this would generate revenue. Well, gas prices fell back down. Cars have become more efficient. We lost revenue. So this is the way to kind of fix that. But yes, I think it's a broader conversation. And I think after we pass this bill, we can have that conversation.

FRIESEN: By locking in that wholesale price, this is-- what you're doing right now is that they're allowed-- that price has been dropping. It's got a minimum amount that it can drop, right?

WAYNE: Correct.

FRIESEN: And so as we just, year after year, keep going down with gas prices staying low, eventually there is less and less going to the cities, is that what you're saying?

WAYNE: Correct.

FRIESEN: And so if you're-- what you're doing is freezing it now and not letting it drop. But if gas prices would go up, this wouldn't matter anymore, would it, if we stop the decline?

WAYNE: Well, we would theoretically lose some revenue if the sales tax was back to the wholesale tax because we'd be back to that \$4, \$4.30 that we think it would-- would have stayed at. But we would eventually lose money because tax-- because the gas price wouldn't have-- would have gone up more than what the wholesale prices-- I'm saying that, but I'm saying it wrong. I think you understand what I'm saying.

FRIESEN: I think I do. Thank you.

LINEHAN: Thank you, Senator Friesen. Other questions from the committee? Senator Groene.

GROENE: Thank you, Chairman. But streets are normally paid out of the general fund budgets, and they get some gas tax. And they got, hasn't Omaha got a wheel tax?

WAYNE: We do have a wheel tax.

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GROENE: And do they dedicate that for streets in their budget or do they put it in the general fund, do you know?

WAYNE: They say it's dedicated to the streets. I think it is included in a general fund though. I'm not 100 percent sure.

GROENE: I just wondered. And do-- it-- when you talked to Stothert, how much fuel tax do you get back from the states, Omaha, do you know?

WAYNE: So right now I had that number.

GROENE: Is it in the fiscal note?

WAYNE: No. I had it before. It's around six point-- I don't know. I'll-- I'll e-mail you that. I had it, but I don't know where my notes went.

GROENE: So you think it's under \$10 million?

WAYNE: Yes. I think it's under three.

GROENE: That size of a city?

WAYNE: Yes. Well you got to remember, it's only 17 percent of the total amount that's divvied up to multiple municipalities. Of that, Omaha only gets 27 percent. So 15, probably around 3 to 4.

GROENE: Thank you.

LINEHAN: Thank you, Senator Groene. Other questions from the committee? Seeing none, thank you very much. Are there proponents for LB338?

MIKI ESPOSITO: The senator left. Good afternoon, members of the Revenue Committee. My name is Miki Esposito, M-i-k-i E-s-p-o-s-i-t-o, director of transportation and utilities for the city of Lincoln. This is a really big chair. I'm here today in support of LB338 to set the minimum average wholesale price of gasoline to \$2.44. Thank you for the opportunity to testify today. Our agency is charged with delivering transportation services to our community. Our citizens need safe and reliable access to important destinations like work, school, the grocery store, the doctor's office, and home again. As you can see from all the potholes that begin to emerge each spring, it's getting more and more difficult to maintain the level of service our citizens expect. Today, the cost of transportation services are rising at a

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rate of 5 to 6 percent per year due to construction inflation, while transportation revenues are only growing at 2 to 3 percent per year. In 2018, Lincoln completed a six-month study of transportation needs compared to available funding. We identified a \$33 million annual gap in transportation revenue-- transportation revenues out to the year 2040. Twenty-one million of that annual gap consisted of basic maintenance like taking care of what we already own and preserving the existing system. As you know, in the 20- 2008 Legislative Session, LB846 established the 5 percent sales tax on motor fuel at the wholesale level based on the average wholesale price of gasoline. With this legislation, 66 percent of the revenue goes to NDOT and 34 percent is distributed to cities and counties. If the wholesale price of fuel is on the rise, revenue increases. If the wholesale price declines, revenues also decline. At the time LB846 was introduced, the city of Lincoln identified that \$2.44 per gallon was a break-even point for the wholesale gas tax where we could sustain the funding and service level required for our citizens. From the period of July 2009 to December 2011, we experienced a continual drop in crude oil prices triggering a drop in fuel price and ultimately a commensurate drop in wholesale gas tax. As a consequence, Lincoln lost a total of \$1.7 million by December 2011. Since July 2016, the wholesale gas tax has been on the decline again and is lower than the \$2.44 break-even point. It is projected to remain lower than the break-even point in 2019. In this current scenario, Lincoln could lose an additional \$1.9 million for a total loss of \$3.6 million. For perspective, I can fill over 500,000 potholes with \$3.6 million. We can maintain over 1,000 neighborhood streets with that amount of money. At the same time, there has been constant uncertainty surrounding federal transportation dollars for local streets. The federal gas tax has not been raised since 1993 which means revenues aren't keeping pace with construction inflation. Costs are going up while purchasing power is going way down. In addition, more and more people are investing in fuel-efficient, alternative-fuel and electric vehicles. You can see this evidenced in the total gallons sold statewide which pretty much remains status quo.

FRIESEN: Could you-- could you start to wrap it up?

MIKI ESPOSITO: Yes. We aren't selling more gas just because the wholesale price is held down. So the costs for upkeep of our current system is outpacing the growth in revenue. There is an unintended consequence in not creating a floor with a wholesale gas tax formula.

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We-- I appreciate your time today, and I'm happy to answer any questions you may have.

FRIESEN: Thank you, Ms. Esposito. Any questions from the committee? Senator Groene.

GROENE: Thank you, Vice Chair. Do you know many electric cars Lincoln has? Do you keep track of that?

MIKI ESPOSITO: I don't.

GROENE: The county registration.

MIKI ESPOSITO: No. I don't keep track of that.

GROENE: What if we put a \$20 a battery tax on it? You got five batteries, four batteries, \$80. Would you take that money?

MIKI ESPOSITO: Would that be implemented at the local level or the state level?

GROENE: You have wheel tax.

MIKI ESPOSITO: Our wheel tax is the highest in the state. It's one of the most unpopular taxes in Lincoln. So adding to that burden, I think would be really difficult.

GROENE: What is your wheel tax?

MIKI ESPOSITO: It's \$74 per vehicle on average.

GROENE: Seventy-four dollars per vehicle?

MIKI ESPOSITO: Um-hum.

GROENE: Thank you.

LINEHAN: Questions? Senator Kolterman. Thank you, Senator Groene.

KOLTERMAN: If you get this bill, would you go through with your sales tax increase?

MIKI ESPOSITO: Well, that is actually up for vote April 9, so this process would have to play out, I think, a little bit after that initiative. The other thing I would just mention, the sales tax initiative is for \$13 million, and as I mentioned, that's about a

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third of the annual gap that we have in the city of Lincoln. It generates \$13 million annually.

KOLTERMAN: Thank you.

LINEHAN: Thank you, Senator Kolterman. Other questions from the committee? Senator Groene.

GROENE: But you can, on your general fund budget-- streets are basic to government. There's a lot of things that the city does that aren't potholes. That's up to the city council and the mayor to decide what their property tax base-- where they spend that money, and apparently they've decided arts in the park or something's more important than potholes. Isn't that a local issue?

MIKI ESPOSITO: Well, I would say that we receive about \$4 million annually in general fund. We don't receive a lot of general fund because we have a user fee-based system with gas tax, wheel tax, some federal funding. So yes, we do prioritize--

GROENE: So you go to the city council and ask-- your department does and asks for general fund money?

MIKI ESPOSITO: We do not generally seek general fund money or property tax for-- to fund our street system.

GROENE: But you said you had \$4 million.

MIKI ESPOSITO: We get-- we get about \$4 million annually from the city council and mayor to-- to fund streets.

GROENE: So to have potholes or not to have potholes is a local issue--

MIKI ESPOSITO: Most of the--

GROENE: --how you spend your general fund money.

MIKI ESPOSITO: Well, I would say that user fee-based system for streets, it has been declining over the last 26 years since the federal gas tax hasn't been raised, and we've been seeing that trended down.

GROENE: So more cities have been using the general fund, property tax base, sales tax base to do their streets.

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MIKI ESPOSITO: You know, actually a lot of cities are turning to sales-- sales tax. Initiatives like Grand Island just passed a quarter-- or I'm sorry a half cent sales tax initiative to fund roads. So many-- many cities are actually turning-- our peer cities are turning to sales tax.

GROENE: Thank you.

MIKI ESPOSITO: Um-hum.

LINEHAN: Other questions from the committee? Seeing none, thank you for being here.

MIKI ESPOSITO: Thank you.

LARRY DIX: Good afternoon, Senator Linehan, members of the Revenue Committee. My name is Larry Dix, spelled L-a-r-r-y D-i-x. I'm executive director of Nebraska Association of County Officials appearing today in support of LB338. The previous testifier touched base on when Senator Fischer passed LB846. And I was around at that point in time, testified on that bill, testified in support of that bill. What we did find is that the gas prices, wholesale gas prices, plummeted that first year. The year right after that, Senator Fischer brought LB264, and LB264 was to establish a base. And so from time to time, people will say, well, where does this number, \$2.44 come up with? That \$2.44 was really to hold everybody harmless. Cities and counties participate equally so each get a share of it. When I look at the 93 counties, the first year out of the shoot, as the gas prices dropped, we lost \$10 million from where we were at, from a stable funding source. So while it has peaked, there have been peaks and valleys. We have consistently looked to try to establish the \$2.44 as-- as the floor. Now when Senator Wayne introduced this bill in January, I assumed I would be here testifying in support and sort of telling you what-- what happened in the past. When I look at it now, given what's happened to the state, this bill probably has a lot more impact potentially on our counties. As we look at some of the devastation that-- that we're faced, we know, I think before, in a previous bill, you'd heard the Department of Roads talking about cash flow. I got to tell you, these counties that are faced with the devastation that they're faced with, cash flow is a significant-- significant issue to them. And not only cash flow. We're concerned about if there's enough gravel in the state of Nebraska to repair the roads that we're on. You talk about bridge repairs. We too, previously I had a conversation with Mr. Schneeweis, even if we can look at some

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of the contractors at the state level to help out the counties, because we know there are just not enough bridge folks building bridges that we can really replenish what we have. A revenue source like this would kick in. It would help with our match to FEMA. I believe, you know, the committee can look at it in whatever way shape or form they wanted. I believe it is a piece of the answer to what we're dealing with, with the devastation. It could be that this floor is established for a period of time just to infuse some cash. The nice thing about it, and I will-- I will finalize, is this would be one of the few taxes that we could have people from outside of the state of Nebraska help us pay rather than put the full burden on the backs of our property taxpayers. With that, I'll be happy to answer any questions. Thank you.

LINEHAN: Thank you, Mr. Dix. Any questions from the committee? Senator Groene.

GROENE: Where do we-- how do we fit the states around us on that tax?

LARRY DIX: I don't know where-- and I think you're talking about the overall tax that that we charge.

GROENE: We're number one now.

LARRY DIX: I don't know where. I think we're somewhere in the middle of the pack. I think the wholesale gas tax is, in Nebraska, it's a little bit different than what I hear it in other states, the way the formula works. So as ours goes up and down, theirs-- theirs may not.

GROENE: Wholesale is part of the fact that we're number one. We were number one after we passed the last gas tax.

LARRY DIX: I don't think we're--

GROENE: In the area, I mean.

LARRY DIX: --on top. Maybe in the area.

GROENE: Yeah.

LARRY DIX: I'll give you that. Maybe in the area. But I think-- I think Iowa just recently voted to increase theirs. When I visited with the executive director of South Dakota, they have it on their books.

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The executive director from Missouri, they have a bill in front of their legislature to increase their gas tax also.

GROENE: Maybe it's been said, but why is this one on a percentage and all the rest of them are on a per gallon?

LARRY DIX: When LB846 was designed, Senator Fischer, myself, I think some of the Fiscal Analysts-- Senator Fischer looked at, at that point in time, my belief, I don't want to put words in her mouth, but I remember sitting here on Saturdays on the weekends, talking about this, working through this proposal. The belief was, at that point in time, if we were to tie it to the wholesale price of gas, it would build in a little bit of an inflation factor because otherwise it was a fixed amount that typically you would get year after year after year. And so the thought was, is there some way to protect against inflation? That's-- that was the whole thought behind it at that point in time.

GROENE: So you bet on the red and you should have took the black, huh?

LARRY DIX: You know, Senator Groene, there are times you-- you make decisions based on, you know, what you see going on at that point in time. At that point in time, the Legislature thought this was a pretty doggone good idea, thought it was a good idea to help cities and counties and the state hedge against that inflation. The one side of the formula, on the state side, there is a component built into it that does protect the state, but that protection was never there for the cities and counties. And that's why we came back immediately the next year to try to establish that floor.

GROENE: Thank you.

LINEHAN: Thank you, Senator Groene. Senator McCollister.

McCOLLISTER: Yeah. Thank you, Madam Chair. As I read the bill now, there's no inflation hedge, correct, Mr. Dix?

LARRY DIX: Right now, the way I read it, it sets the floor at \$2.44. Now if the price of gas goes above that, of course, it will increase as the wholesale price of gas does increase. It just establishes the floor, which is the exact same thing we were trying to establish in 2009, with LB246 was established how far it could drop just to-- just get a-- a floor if you will.

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McCOLLISTER: So when I bought gasoline yesterday for \$2.59, that floor has, in effect, been raised.

LARRY DIX: I don't believe our floor has been raised. The wholesale gas, you look at it, and it looks-- they analyze it over a six-month average. And over that six-month average, it can either go up or go down one cent. So if the wholesale gas-- if the wholesale price of gas-- say the wholesale gas-- price of gas went to \$10. It can only go up a penny in a six-month period of time. So there-- there is a built-in mechanism in existing law that will not allow it in any six months to go up or down more than one cent.

McCOLLISTER: Yeah. Of course, I would-- I bought the gasoline at retail, and we're talking about wholesale prices.

LARRY DIX: We're talking-- yeah, we're talking about-- we're talking about the component of tax that goes to the county. So we're not even talking about the wholesale price of gas. We're talking about the tax that comes to the cities and counties based on the wholesale price. So in any point in time, it-- when it drops and when it dropped, we realized at that point in time, no matter how high, how fast it would rise, we would not be able to make it up for about a three-year period of time because of that one cent.

McCOLLISTER: Thank you.

LINEHAN: Thank you, Senator McCollister. Other questions from the committee? Seeing none, thank you very much, Mr. Dix, for being here

LARRY DIX: Thank you.

LINEHAN: Other proponents?

LASH CHAFFIN: Good afternoon. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n, and I'm a staff member at the League of Nebraska Municipalities. I'm here to testify in support of LB338, and as the prior testifier indicated, really the purpose of this bill is-- is a decade ago, a public policy-- well-meaning public policy decision went awry. And LB846 was passed in 2008, and it-- the purpose was to establish a stabilizing mechanism for gas tax. I mean they were-- it limited how much-- how much the wholesale price component of the formula go up. It limited how much it would go down. At the hearing, there were numerous discussions involving the price of \$2.44. However, that was actually not in LB846. I think at the time, everybody assumed

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that was the hold harmless. That's what-- it would either go up from there or it would be like that. However, the effective date of LB846 was July 1, 2009. So there's a full year. In that-- in that year period, the wholesale price drops to \$2.20-something. I can't-- kind of get different remarks. So somewhere in that period, the assumption that the hold harmless price was \$2.44, the actual price that implemented into the formula was \$2.20-some when the bill became effective. And then Senator Fischer introduced, within that-- within that gap period, LB264 to try to remedy this. However, LB264-- LB264 did not pass. And-- and interestingly as the Build Nebraska Act and the-- the-- the LB610 money started to flow to the-- to the cities and counties, really it was only the first wave of the LB610 money or the four increments that even kept the cities whole to what they lost in that one-- one-year period when the wholesale price dropped. And so I think that the issue here, in our mind, is that we'd like to correct what was a well-meaning policy decision that went awry in 2008. And I would certainly answer any questions.

LINEHAN: Thank you, sir. Senator Friesen.

FRIESEN: Thank you, Chairman Linehan. So what-- the only protection basically put in there, back then, was that it can only drop one cent, right?

LASH CHAFFIN: Correct. Or go up a certain amount as well.

FRIESEN: Yeah. So that was the protection put in place, but I think currently the wholesale price of gasoline is \$1.76, is that about right?

LASH CHAFFIN: That-- that is.

FRIESEN: So we're-- we're a long ways off from that \$2.44. But we have not dropped down there yet because it only dropped one cent a year, is that-- that--

LASH CHAFFIN: Correct.

FRIESEN: OK. Well, what is the number they're currently using?

LASH CHAFFIN: You know, Senator, I'm not-- I'm not sure. Perhaps somebody from the Department of Transportation can answer that.

FRIESEN: OK.

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LASH CHAFFIN: But it-- you know, the number-- you're correct, the number right now is an artificial number--

FRIESEN: Right.

LASH CHAFFIN: --because if it went up, it would be an artificial number. If it went down, it would be an artificial number because it's never chasing the actual price. You know, it's-- and the purpose of LB846 was to stabilize the price. So it's had that effect, however, in the period when it actually became effective, cities lost \$14.7 million a year in that-- in that gap period just because of the--

FRIESEN: Nobody ever thought gas prices would go this low.

LASH CHAFFIN: Exactly. And you know, I think the bet on red, bet on black was-- well, you know it's interesting at that time in history, nobody did think that. I mean we had speakers at our conferences talking about prepurchasing gas futures, things like this, because gas was going up so fast. You know, the cities that had fleets-- I mean the assumption was that gas would continue to go up. And-- and I believe even, I don't know anything about gas prices, but I think even the experts were surprised in that-- that one-year period when it went down.

FRIESEN: You realize why I'm so cynical sometimes when somebody comes with a projection?

LASH CHAFFIN: Yes. Yes, I do. And well, also a couple senators, right after this happened, got to serve on the-- the revenue summer tour and the transportation summer tour where this issue was discussed many, many times. And it was-- I believe you might have been on both those committees at the time. That was a lot of miles to talk about gas tax.

FRIESEN: Thank you.

LINEHAN: Thank you, Senator Friesen. Other questions from the committee?

LASH CHAFFIN: Thank you.

LINEHAN: Seeing none, thank you very much for being here, Mr. Chaffin. Are there proponents?

JACK CHELOHA: Good afternoon, Senator Linehan, members of the Revenue Committee. My name is Jack Cheloha, I'm the lobbyist for the city of

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Omaha, that's spelled J-a-c-k C-h-e-l-o-h-a. I want to testify in support of LB338 and thank Senator Wayne for introducing it and his stick-to-it-iveness on the matter. I know he's introduced a similar bill in the last couple of years. As the previous witnesses have testified, and I can testify to it as a witness and a participant in 2008 as well, this bill's meant to correct an unintended consequence from 2008. As everybody's testified, we all thought that price of fuel was going up, skyrocketing, etcetera. We wanted to build in an inflation factor to at least help. In the meantime, governors, senators, etcetera, created blue-ribbon panels to study, how can we get more funding for streets and roads in our state? And a lot of-- a lot of ideas were put forward, but a lot of times it takes a long time to implement them. Nevertheless, this bill was passed. But-- however, when it was passed, there was a one-year delay in the implementation of it. And as we waited, the Great Recession of 2008 hit, not only the USA but the world markets. Fuel prices plummeted. And this bill went into effect, and instead of being helpful and guarding against inflation, it actually hurt cities and counties. It didn't hurt the state because they had a variable tax that could offset against it. So we think LB338 is necessary. Senator Fischer, like you've heard, tried to correct it. It just didn't get done. And so we think if we could do that now, that would be a great thing for the city, the counties, the state. Finally, I'd be remiss if I didn't mention page 3, the-- the new language by Senator Wayne. The city probably thinks that this isn't necessary. We've with-- through Mayor Stothert, have changed some policies and created greater attention towards unimproved streets. In fact, Senator McCollister carried a bill for the city a couple years ago that helped with paying for those improvements when it's-- part of that's the responsibility of the homeowners. And so if this committee decides to move forward with LB338, we'd like a chance to at least look at the language and review it, maybe offer some amendments. But we think LB338 would be helpful. We support it, and ask for your support as well. Thank you.

LINEHAN: Thank you very much, Mr. Cheloha. Questions from the committee? Seeing none, thank you very much.

JACK CHELOHA: Thank you.

LINEHAN: Other proponents? Are there any opponents?

KYLE SCHNEWEIS: Good afternoon, Chairwoman Linehan-- Linehan and members of the committee. Kyle Schneweis, K-y-l-e S-c-h-n-e-w-e-i-s, director of Nebraska Department of Transportation. As you've heard,

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this bill changes the calculation of the gasoline tax by setting a floor for the average wholesale price. It provides for the minimum average wholesale price to be set at \$2.44. If the bill passes, it's estimated that the new minimum average wholesale price will result in a gas tax increase of 1.2 cents beginning on January 1, 2020. The department opposes any increases in taxes. I would also like to point out a technical issue with the bill. Nebraska statute 66-489.02(2) prohibits the average wholesale price from increasing or decreasing more than one cent per gallon between two consecutive six-month periods. If this bill passes, the wholesale tax would increase 3.4 cents, violating that statute and preventing the department from complying with the provisions of LB338. So because of those issues, the department opposes LB338. I'd be happy to answer any questions.

LINEHAN: Questions from the committee? Thank you, Director. Questions from the committee? How much money would this generate for the state if this bill passes?

KYLE SCHNEWEIS: So that's a question I can't answer at the moment.

LINEHAN: OK. That's fine.

KYLE SCHNEWEIS: I don't know. I can get back to you.

LINEHAN: No. No. That's-- we have this--

KYLE SCHNEWEIS: I probably have a fiscal note in my hand-- my stuff here.

LINEHAN: I probably do too. I just thought maybe you could walk us through it because you-- your department prepared--

KYLE SCHNEWEIS: Yeah. Well, I know lots about the gas tax. I don't know what this actual bill would do in terms of increases for us. It probably--

LINEHAN: Do you have a fiscal note?

KYLE SCHNEWEIS: I do. So our-- our gas tax is set by appropriation, and so as the wholesale goes up and down, we actually have a variable tax that shifts up and down to match the appropriation.

LINEHAN: So this-- we're just taking about what the city and counties would get.

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KYLE SCHNEWEIS: Correct.

LINEHAN: This is for them, not for you.

KYLE SCHNEWEIS: Correct.

LINEHAN: Not for the state, right?

KYLE SCHNEWEIS: Correct. Correct. We do get a piece of the wholesale but it's only-- it's one part of the puzzle on our tax.

LINEHAN: OK. All right. Other questions from the committee? Senator McCollister.

McCOLLISTER: Yeah. Thank you, Madam Chair. Is your objection to this bill that the state is telling you what to charge? Or this wouldn't have any effect on your gas tax resident, would it?

KYLE SCHNEWEIS: So I don't believe-- so I got to be careful here because I-- I don't believe so. I think that-- so not in the immediate term. In the long term, it could. The way that our-- we have a three-legged stool when it comes to gas taxes at the state level. We have a fixed piece which is the piece that stays the same every day no matter what. Then we have a wholesale piece that goes up or down a little bit every six months based on the price. And then we have a third piece that's the variable that goes up or down based on usage, and it makes sure that whatever our appropriation is set at, that the Unicameral passes, we can meet. And so that appropriation is what drives our tax more than anything else. The variable would adjust up or down with this as a component. Now if this thing got high enough that the variable was zero, then it would increase our tax and increase our revenue.

McCOLLISTER: When you say appropriation, what do you mean?

KYLE SCHNEWEIS: So the appropriation that is set by the-- by the Legislature. So when we-- we meet with the Appropriations Committee, it's based-- it's usually set mostly based on what our forecasts for our revenues is. So \$450 million is what we're projecting, give or take, appropriation is set at 450. And then after negotiations and all the budgeting that you do, at the end if that's what it's set at, then over the course of the next two years as the gas price goes up or down or usage goes up or down, electric vehicles were mentioned, that we

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have this little dial that we just turn up or down every six months to make sure we can meet the appropriation.

McCOLLISTER: Thinking of a pie chart for your revenues--

KYLE SCHNEWEIS: Yeah.

McCOLLISTER: --can you give me the major components of your revenue picture?

KYLE SCHNEWEIS: Yes. So the biggest piece is the fuel tax. We also have a--

McCOLLISTER: And what percentage of your budget is that amount?

KYLE SCHNEWEIS: I'm going to have to-- I would say it's-- it's the largest piece. That's-- that's as far as I'm willing to go without getting some more information to you.

McCOLLISTER: Forty percent?

KYLE SCHNEWEIS: Yes. Let's just say it's around that. We have a registration fee which is probably 20 percent, the federal piece which is probably a third, and then we have Build Nebraska Act which is the sales tax piece that you mentioned earlier.

McCOLLISTER: How much is that?

KYLE SCHNEWEIS: And that's \$64 million a year so it's--

McCOLLISTER: Four million?

KYLE SCHNEWEIS: Sixty-four million--

McCOLLISTER: Sixty.

KYLE SCHNEWEIS: --is what we project on average. The cities and counties get a piece of every one of those revenue sources, including the Build Nebraska Act, so that's-- those are the major four. We get-- sales tax on vehicles is another one.

McCOLLISTER: So you're probably looking at another 20 percent that's kind of miscellaneous?

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KYLE SCHNEWEIS: The sales tax on motor vehicles is probably the 20 percent. Yeah, the miscellaneous are very small.

McCOLLISTER: So this bill directly wouldn't have any immediate impact on your budget at all.

KYLE SCHNEWEIS: I believe that's correct. Yes.

McCOLLISTER: So once again, I ask you, why-- why are you opposed to this?

KYLE SCHNEWEIS: We are opposed to the fact that it's a fuel tax increase.

McCOLLISTER: OK. Thanks very much.

LINEHAN: Thank you, Senator McCollister. Other questions? Senator Friesen.

FRIESEN: I want to try and clarify what just happened there.

KYLE SCHNEWEIS: Thank you.

FRIESEN: You're-- under one statute, we can only change it one cent at a time.

KYLE SCHNEWEIS: Correct.

FRIESEN: And in this statute, we're trying to override that statute and say it's going to jump three--

KYLE SCHNEWEIS: Correct. And I don't believe the bill addresses that-- that technical challenge. Yeah.

FRIESEN: So that we're violating sections of statutes technical. So if-- if this bill would allow it to go up 1 cent a year until the 3.5 cents was taken care of, we wouldn't violate the other section of statute. Would that be correct?

KYLE SCHNEWEIS: That's correct.

FRIESEN: And it doesn't have a very large impact on the state whatsoever. It's [INAUDIBLE].

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KYLE SCHNEWEIS: As long as we have room in the variable to move the dial, then the only thing that matters is our appropriation.

FRIESEN: Right. Thank you.

LINEHAN: OK. I'm going to ask a question for clarification. It will probably make me look like--

KYLE SCHNEWEIS: I'll do my best.

LINEHAN: Well, you say appropriation, but it's not-- they appropriate what these revenues generate, right?

KYLE SCHNEWEIS: Generally that's where we start.

LINEHAN: It's where you start. And then--

KYLE SCHNEWEIS: Yep. So but if we project an opportunity to lower the gas tax, we have done that. And that's been a part of our formula in the appropriation in the past.

LINEHAN: Say that again from the start.

KYLE SCHNEWEIS: So if we see that the gas tax can be lowered because maybe people are driving more so the variable piece can be lowered, we will do that. So if we project out that the traffic volumes are going to rise, economy's good, people are driving more--

LINEHAN: Um-hum.

KYLE SCHNEWEIS: --we'll see that usage going up and we can dial back the variable piece a little bit and actually lower the gas tax as a part of the appropriation.

LINEHAN: And Appropriations Committee is fine with that?

KYLE SCHNEWEIS: They-- you'd have to ask them.

LINEHAN: OK. That's probably-- that is a very smart answer. Thank you. Senator McCollister.

McCOLLISTER: Thank you, Senator Linehan. Have you ever, in fact, reduced the gas tax?

KYLE SCHNEWEIS: Yes. We've done it, I believe, about half of the time since I've been here, in the four years. Every six months, I sign a

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letter that goes up or down, and about half the time it goes down a pen-- like a tenth of a penny or two-tenths. And other times, it's gone up a tenth.

McCOLLISTER: And yet-- and yet we've just talked about a shortage of money. In this-- this-- this whole series this afternoon, we talked about the-- the massive amount of road reconstruction everything.

KYLE SCHNEWEIS: So I-- so I--

McCOLLISTER: So you have-- you have the authority to raise taxes now because of some shortage of money to cover all the expenses, correct?

KYLE SCHNEWEIS: Very-- in a limited sense, within a few percentage of the appropriation. So the appropriation drives it, for the most part. And then for the next two years, we were very much driven by that. And I-- you know, on the-- on the needs piece, I mean, needs are always greater than revenues. That's-- that's not news to anyone. You know, I liken it a little bit to my house. I would like a new driveway. I need to be thinking about a new roof. I'd like to paint the basement. I need new-- you know, but you got to take what you got and put it to use the best you possibly-- best you can. We have good roads in Nebraska. We're-- 85 percent of our highways are in good condition. We're making the right investments.

McCOLLISTER: We're--

KYLE SCHNEWEIS: We are making the right investments, Senator.

McCOLLISTER: Thank you.

KYLE SCHNEWEIS: Thank you.

LINEHAN: Thank you, Senator McCollister. Senator Friesen.

FRIESEN: Thank you, Chairman Linehan. I want to ask some questions. I think I'm going to-- so when you develop your budget, year in and year out, you try to-- you're looking at projects ten years out.

KYLE SCHNEWEIS: Um-hum.

FRIESEN: So you develop a budget that's fairly stable and shows increases in project size or whatever. And that budget is what you

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take to Appropriations, and they appropriate according to your budget so to speak. That's where the variable portion comes in?

KYLE SCHNEWEIS: Yes. So we-- the process works this way. We look at our projected revenues, and needs are a part of that. As you've been a part of our needs conversations in the past, we generally are not-- we're not trying to force a gas tax increase through our appropriation. So we look at, what do we expect for revenues based on the taxes as they are currently structured and any increases that we know are coming. You remember LB610 in-- included a penny and a half every-- every year and-- every year. So we include that in there. And then we set that appropriation based on that for the most part. And then that's where the starting part of the negotiations begin.

FRIESEN: The reason it doesn't fluctuate a lot is because if we see a smaller driving season using less gas but your budget has to be maintained, you will be raising the gas tax in order to raise-- so to speak.

KYLE SCHNEWEIS: If it occurs after the appropriation is made, there is a-- there is a dial that we turn to just make sure we get to the appropriation.

FRIESEN: It works both ways.

KYLE SCHNEWEIS: It works both ways. Yes.

FRIESEN: OK. Thank you.

KYLE SCHNEWEIS: And it provides us stability that we talk about a lot, about that need to know what we're going to have for revenues.

LINEHAN: Other questions from the committee? Seeing none, thank you, Director.

KYLE SCHNEWEIS: Thank you.

LINEHAN: Are there opponents? Is there anyone wishing to testify in the neutral position? Senator Wayne, would you like to close?

WAYNE: Thank you, Chairwoman. This is a simple amendment to fix the technical issue, one that I just thought of as I was sitting over there, is that the one cent wouldn't apply. The one-cent limit wouldn't apply until after 2020. So that would give two years to go up to the maximum \$2.44. And the one cent can go back. That's a simple

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amendment, or I can work with committee counsel to come up with any amendment to deal with that small issue. But in the fiscal note, I do want to point out a couple of things. DOT received 66 percent of the wholesale tax. So their impact in 2020 under this bill would be \$10 million. In 2021, they would receive an additional \$30 million. If you look at page 2, the impact on the counties and cities. And I think the counties made a great case for why they would need the extra \$2.6 million and \$7.8 million, especially if they have to redo their roads and unexpected monies that will be done as a result of multiple floodings. That's an extra \$9 million, actually \$10 million that would be divided up around the counties to help with their issues, and an extra \$10 million as it relates to the municipalities. This is simply unforeseen error, and they've been trying to correct it for years. And I'm hoping we can get the job done this year as part of our overall tax package. With that, I'll answer any questions.

LINEHAN: Are there any questions for Senator Wayne from the committee? Seeing none, let me see if we have letters for the record. We do: proponent, Mayor Jean Stothert, Mayor of Omaha; opponents, none; neutral, Timothy Keigher, Nebraska Petroleum Marketers and Convenience Store Association. And with that, we'll close the hearing on LB338 and open the hearing on LB429.

WAYNE: We're finishing with a great bill today. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent the mighty District 13 which is north Omaha and northeast Douglas County. Good afternoon, Chairwoman Linehan and members of the Revenue Committee. LB429 is a simple bill and doesn't necessarily change the underlying statute. It simply adds a cap amount-- cap amount of tax that would be charged per cigar-- per premium cigars I should say. As it stands today, premium cigars are cheaper to purchase on-line, that's just the fact that we deal with in Nebraska, significantly cheaper to be quite honest. And the tax imposed by buying it in-state has gotten a little out of control and why it's cheaper. There'll be two individuals behind me who can go into the details and the practicality of why this is important, why that when they buy \$100,000 worth of cigars, they have to pay a tax up front that typically doesn't happen in any other industry, whether they sell them or not. And it's just some issues that we-- I think we can work out in the overall tax package if this committee is looking to put it on the floor. Our neighboring states around the region, like Iowa and Minnesota, have enacted similar-- similar legislations. And although our fiscal note say it's a negative, both of those states have seen a positive tax revenue from

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these types of legislation. It's because the local shops, the premium cigars, start to sell which right now, they're not. And so the assumption is, in our fiscal note, that we're going to lose revenue, but they're not accounting for all the people who are currently buying on-line because it's cheaper due to this tax. This isn't going to lead to more kids smoking. I want to make sure that's clear. It doesn't lead-- it's not the gateway drug. What we are trying to do is make sure Nebraska businesses, particularly around the premium cigars, can compete in this ever-growing environment of retail that is now on the Internet. With that, I will answer any-- well, on the amendment, we are just adding pipe tobacco. The simplest way for me to put it, but they can ask-- a couple people behind me can answer the more technical questions on that. And any questions?

LINEHAN: Are there any questions for Senator Wayne? Seeing none, thank you. Proponents? It's warmer.

SCOTT LAUTENBAUGH: Hmm?

LINEHAN: It's warmer up here.

SCOTT LAUTENBAUGH: It always is.

LINEHAN: Good afternoon, Senator.

SCOTT LAUTENBAUGH: Good afternoon, Madam Chair and members of the committee. My name is Scott Lautenbaugh, L-a-u-t-e-n-b-a-u-g-h, representing the Nebraska Premium Tobacco Association. I'll be followed by Jeff Doll who owns one of the cigar cellars here in the state. This is a small business bill, and you've heard this before. We were here talking when there was the move to raise the OTP tax to 65 percent, and of course, we were opposed to that. We remain opposed to that to be clear. The thing that always gets lost in this conversation, so I keep reiterating it, is this tax is paid when the inventory comes into the cellar. So if you have a humidor with 100,000 in inventory, you have to pay \$120,000 before you sell anything. That \$20,000 is the tax. It's not paid upon sale. It's the cost of bringing the inventory in. And the on-line sellers don't pay this. So this is meant to focus on high-end cigars and cap the tax at 50 cents, so we can compete with the on-line sellers that are frankly flooding the state with boxes of cigars because they're dramatically cheaper. Until now, they weren't paying the sales tax. We seem to be taking care of that which is good. There's no way to collect this tax from the out-of-state sellers. It just-- by definition, it's the sellers here

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in the state to pay this. So we're at a tremendous competitive disadvantage. This was created before the Internet. Is what it is. And here we sit, trying to make up business, trying to stay in business. It is correct, and Senator Wayne alluded to it, that I believe Wisconsin has done this, put a cap per stick on their higher-end cigars. And their revenue collections went up because more people are buying in the state. That just stands to reason because they're not buying it on-line with the sellers who don't pay this tax. So this is one of those rare occasions where you have an opportunity to decrease a tax, cap a tax, and raise revenue. So I would call it a win-win for all involved, and it certainly would be a win for small business in Nebraska. And the, Senator Wayne alluded to, these are not cigars that kids are running around smoking. They're not smoking \$5 and \$10 cigars unless I come home and my humidor is empty. But that's my household, not the whole society. So yeah, this is just a good, small business bill. I'd be happy to try to answer any questions you may have.

LINEHAN: Thank you, Senator Lautenbaugh. Are there questions? Seeing none, thank you very much. Other proponents?

JEFF DOLL: Good afternoon, Senators. Excuse me. My name is Jeff Doll, J-e-f-f D-o-l-l. I am the president of the Nebraska Premium Cigars and also owner of Safari Cigars in Omaha. We've seen in other states, especially Minnesota, Wisconsin, and Michigan, by putting a 50-cent cap on it, they actually got-- the state got more revenue because they could-- because the owner-- cigar shops could actually compete better with this on-line. And we didn't-- you know, until-- I've been in the business six years, and I've seen this since I've opened up, 80 percent of my customers buy cigars on-line. And I don't blame them because I can't even-- I can't even get close to those kind of pricings with a 20 percent tax, overhead, you know, sales tax, city tax. So what we're asking for is for you to give some consideration of this because I believe we can actually bring more tax in, compared what we've seen in other states. And the youngest I have-- customer I have is 24. And most-- and our average probably is like 35 to 80-years-old. So I don't have anything else. If you have any questions, I'll be glad to answer them.

LINEHAN: Thank you. Are there questions for Mr. Doll? Yes Senator Briese.

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BRIESE: Thank you, Chairman Linehan. Thank you for your testimony. Just curious, what is a typical wholesale price of these cigars we're talking about? What's the range and what's the average?

JEFF DOLL: I would say on average, we're probably \$8, \$9.

BRIESE: Wholesale?

JEFF DOLL: Yeah, wholesale.

BRIESE: OK. Yeah. Thank you.

JEFF DOLL: Thank you. Anything else? Thank you.

LINEHAN: Whoa. Whoa. Whoa. I'm not sure. Is there anybody else?

JEFF DOLL: I didn't want to hold you up.

LINEHAN: So when they sell-- where are they-- where are they coming from, the cigars on-line?

JEFF DOLL: On-line there's four major companies in the United States, and it's mainly Internet. And then if you buy from them, they send you sale update man-- or catalogs all the time.

LINEHAN: So they're selling them from a state that doesn't have taxes?

JEFF DOLL: No tax

LINEHAN: No tax.

JEFF DOLL: Yeah. Yeah.

LINEHAN: Do you know what state that is?

JEFF DOLL: Pennsylvania.

LINEHAN: OK. And there's--

JEFF DOLL: And Texas. Texas also, they have a one-cent cigar tax.

LINEHAN: OK. So you can open up on-line in Pennsylvania or Texas and sell in Nebraska?

JEFF DOLL: Um-hum. Yeah.

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LINEHAN: They do have to pay sales tax now or pretty soon-- pretty soon.

JEFF DOLL: Yeah. But they don't have to pay sales tax.

LINEHAN: Pardon?

JEFF DOLL: They're not paying sales tax.

LINEHAN: Right. The customer though--

JEFF DOLL: Yeah.

LINEHAN: --should now, in the future, shortly. Senator Kolterman, do you have a question?

KOLTERMAN: Since you sell cigars, what's the difference between a cigar, a stogie, and a cheroot?

JEFF DOLL: A what?

KOLTERMAN: Cigar, a stogie and cheroots.

JEFF DOLL: Cheroots? Stogie and cigar would be the same thing. I don't know what a cheroot is to tell you the truth.

KOLTERMAN: OK.

JEFF DOLL: I probably should know, but I don't.

KOLTERMAN: It's in the bill. I just was.

JEFF DOLL: You know, and we also lost in Nebraska, Warfighter cigars. They were-- they were-- actually had their own line but in-- their own line of cigars. They were for veterans. And they moved to Texas because they can't compete on-line in Nebraska with this-- with the tax.

LINEHAN: OK.

JEFF DOLL: OK?

LINEHAN: All right. Thank you. Other questions from the committee? Seeing none, thank you very much for being here today, sir.

JEFF DOLL: Thank you.

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LINEHAN: Are there other proponents?

STACY GRIFFIN: Thank you, Chairwoman Lou Ann Linehan and the Revenue Committee members for hearing my testimony on LB429. My name is Stacy Griffin, S-t-a-c-y G-r-i-f-f-i-n, and I'm the owner of the Nebraska Cigar Society and the Nebraska Cigar Festival. I'm testifying in favor of LB429. Most of what I'm going to say is kind of a repeat of what you heard, but I want to reiterate the importance of it. Under the current law, cigar-- cigar retailers have to pay 20 percent up front in a tobacco tax on all cigars purchased from the manufacturer at the time of purchase. For example, if a cigar retailer purchases \$100,000 in inventory, they have to pay the state of Nebraska \$20,000 before one cigar can even be sold in the state of Nebraska. That's \$120,000 spent before one sale is made. The current tobacco tax ties up capital for months at a time, making it harder for businesses to run their business. Current tobacco tax is not enforced on on-line sales. It's been said before and I need to reiterate it, many consumers take advantage of this loophole and choose to purchase on-line instead of locally to avoid the tax. And they are avoiding the tax. They know they're avoiding the tax. Our neighboring state of Iowa has a 50-cent tobacco tax on premium cigars. Kansas's tobacco tax is about 41 percent on premium cigars. Again, Nebraska charges 20 percent of the wholesale cost which is significantly higher than our neighboring states. Just this year, as you were-- as was just testified to, a veteran-owned cigar manufacturer left the state for a much friendlier tax environment in Texas. That is a huge loss to our state. We really, really, really need to keep businesses in Nebraska, not send them out of state. LB429 has-- may have been able to prevent this departure by capping their current 20 percent tobacco tax to 50 cents per cigar. This type of commonsense legislature is what Nebraska needs. I would like to thank Senator Justin Wayne for introducing this bill. I appreciate your consideration, and thank you for the opportunity to address this issue. Thank you. Do you have any questions?

LINEHAN: Thank you. Are there questions? Senator Briese.

BRIESE: Thank you, Chairman Linehan. Thank for your testimony. Have the on-line sellers been gaining market share over the--

STACY GRIFFIN: Absolutely.

BRIESE: --recent years that you're aware of?

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STACY GRIFFIN: As the price of premium tobacco goes up, just the regular wholesale price goes up, the 20 percent adds to the cost. I mean that's just a simple math problem that we all can be aware of. So as there-- as the costs for the product increases and we add that 20 percent to it, and then let's not forget we add sales tax on top of the tobacco tax at the time of sale, it makes the actual purchase significantly higher than what they're paying on-line.

BRIESE: Would you have any numbers relative to--

STACY GRIFFIN: I don't have any numbers specifically today.

BRIESE: --percentage market share that, how it's changed?

STACY GRIFFIN: I'm sure-- I'm sure that we can get that--

BRIESE: That's all right. Sure.

STACY GRIFFIN: --for you, but I don't have the specific numbers. Yeah.

BRIESE: OK. Thank you.

LINEHAN: Thank you, Senator Briese. Senator McCollister.

McCOLLISTER: Thank you, Chairwoman Linehan. How long has this particular tax plan in effect in Nebraska?

STACY GRIFFIN: Well, I've owned the Nebraska Cigar Society and the Nebraska Cigar Festival for 13 years now. I think it's been in effect the whole time.

McCOLLISTER: Goodness.

STACY GRIFFIN: It's a-- it's a big number.

McCOLLISTER: Yeah. Do you find that the incidence of cigar shops in Omaha is much smaller than comparable-- comparable cities?

STACY GRIFFIN: Let me understand your question better, Senator.

McCOLLISTER: Well, if you take two similar cities, Omaha and maybe a city in a low-tax state, do you have a lot more cigar shops in that other city?

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STACY GRIFFIN: I wouldn't say you have a lot more cigar shops; you have a lot more cigar sales in those cities.

McCOLLISTER: So retail sales.

STACY GRIFFIN: Retail sales. Absolutely.

McCOLLISTER: OK. Yeah. Thank you.

STACY GRIFFIN: Yeah. They're supporting small businesses in those communities much more heavily than they would be a small business in Nebraska simply based on price.

McCOLLISTER: I think there's \$244,000 fiscal note which would seem to indicate a lot of cigar sales in the state, at least purchases of wholesale supplies.

STACY GRIFFIN: There are a lot-- I don't have the numbers to speak to this. There are a lot of purchases. I mean this-- the Festival alone is a one-time annual event that I host, and I do buy a significant amount of cigars at wholesale prices that I then have to turn around and pay the tobacco tax on. But I think the argument is we're trying to find ways to increase revenue. And I think if we could make more sales and pay more-- I mean the sales tax is still collected on it. And if we're buying-- if we're bringing more tobacco-- premium tobacco into Nebraska and then we're turning around and selling that, you're-- you're gaining more sales tax revenue that way.

McCOLLISTER: Now, do cigars have a shelf life?

STACY GRIFFIN: Not really. If they're maintained at a proper humidity, some would argue they get better with age kind of like fine wine.

McCOLLISTER: OK. Thank you.

STACY GRIFFIN: OK.

LINEHAN: Thank you, Senator McCollister. Other questions from the committee? Seeing none, thank you for being here. Appreciate it.

STACY GRIFFIN: Thank you.

LINEHAN: Are there proponents? Thank you.

BRETT MECUM: Good afternoon, Madam Chairman, members. My name is Brett Mecum, spelled M-e-c-u-m, and I represent the International Premium

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Cigar and Pipe Retailers Association. I'm thrilled to be back here. I was here several weeks ago, and I'm also thrilled to be here on a bill that we can support. The 50-cent tax cap is a bill-- is legislation that has been moving through several states throughout the country. I think we're up to seven states now that have enacted-- enacted it. The newest state is New Mexico. We have gotten that passed this session. Last year was Rhode Island. The year before that was Minnesota, and the list goes on and on. I think Iowa's mentioned, Arkansas, Michigan as well, Oregon. So you have a very wide range of states that have gone to this model because, as previous speakers have mentioned, basically when the taxes get too high in a state, they go on-line. And you know, Pennsylvania was mentioned. Texas was mentioned. Florida is another one that has a huge on-line distribution for folks around the country. So basically this bill protects brick and mortar. This bill keeps mom-and-pop retailers in business. We're not the-- the premium cigar groups are not big tobacco. We are mom-- mom-and-pop-owned organizations throughout the country. My Association represents about 3,000 throughout the country. I've got about 18 members here in the state of-- of-- of Nebraska. So these are-- this is a small business bill. This is a probusiness bill. This is a lower-tax bill. And this is something that I would love the-- this committee to consider.

LINEHAN: Thank you.

BRETT MECUM: Any questions?

LINEHAN: Are there any questions for Mr.-- is it Mecum?

BRETT MECUM: Mecum, ma'am.

LINEHAN: Mecum. Seeing none, thank you very much for being here. Appreciate it.

BRETT MECUM: Thank you. Appreciate the committee's time.

LINEHAN: Thank you. Other proponents? Are there any opponents?

NICK FAUSTMAN: Good afternoon. I'm Nick Faustman, N-i-c-k F-as in Frank-a-u-s-t-m-a-n. I'm the Nebraska government relations director for the American Cancer Society Cancer Action Network which is the nonprofit, nonpartisan, advocacy affiliate for the American Cancer Society. We support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. The ACS CAN opposes LB429 which would cap the tax on cigars. Ample research has

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been done on tobacco excise taxes indicating that as price of these products goes up, the actual usage rate decreases. Because of this correlation, ACS CAN recommends raising, not reducing or capping the tax on cigarettes and all other tobacco products, including cigars. Tobacco is deadly and addictive. Contrary to what has been stated or implied at least a few times in the past before the Revenue Committee, cigars are indeed harmful and do cause cancer. Regular cigar smokers have an increased risk of cancers to the lung, oral cavity, larynx, and esophagus, and are four times-- four to ten times more likely to die from these cancers compared to never smokers. The health and economic burden of cigar smoking in the United States is large and may increase over time because of the increasing consumption of cigars in the United States. In fact, here in Nebraska, the overall high school rates of cigar smoking nearly mirrors the overall high school cigarette-smoking rates. I am reminded of a meeting I once attended at which our Tax Commissioner spoke about tax policy. He told the group quote, if you want more of something, tax it less. The opposite would apply in this case as I do not think Nebraska wants or needs more death and disease resulting from tobacco use. Instead, we should be taxing tobacco at higher rates as part of a comprehensive approach for evidence-based tobacco control. This year, the Legislature once again finds itself facing tough decisions, particularly with regard to property tax relief, replenishing the Cash Reserve Fund, and funding Medicaid expansion, to say nothing of all the other bills introduced this session that have fiscal notes. Clearly the budget is in need of additional new revenues, and increasing tobacco taxes by at least \$1 per pack with equivalent tax rates on all other tobacco products are strongly supported by the majority of Nebraskans. And therefore, LB429 takes our state in the wrong direction.

LINEHAN: Thank you. Are there questions for Mr. Faustman-- questions for Mr. Faustman? Seeing none, thank you for being here.

NICK FAUSTMAN: Thank you very much.

LINEHAN: Are there other opponents? Is there anyone wishing to testify in the neutral position? Senator Wayne, would you like to close?

WAYNE: Yes. So first, let me start off by saying, the FDA recently said that two cigars a day would pose actual minimum health risk. That's just-- that's what the FDA says. It's not the same as cigarettes. But let me just tell you a brief story of how this works and put it in practical examples. So Senator Kolterman, when we go out and have a cigar, you're going to say, what kind of cigars should I

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get? And I'm going to walk into a humidor. An employee works there, they're going to say, here goes the good ones, here goes the bad ones. You're going to pick a My Father No. 6.

KOLTERMAN: Uh-uh.

WAYNE: What are you going to pick? OK. Don't answer that. I can't ask you questions.

KOLTERMAN: I'd pick an ACID.

WAYNE: OK. Well, I'm going to go with My Father No. 6 because that's what I looked up. So you're going to smoke that cigar. You're going to say, I really like that cigar. And then you're going to ask for a box. And a box in Omaha, a box around Nebraska's run about \$300. And you're going to get on your smartphone, and you're going to look it up. And you can see Famous Smoke is \$196. Now you like the cigar, but are you going to pay \$300 at the store that I was just at, who taught me everything about it or am I going to order on-line and have this into my house? That price difference is in part a big part of the wholesale tax we're charging right now on premium cigars. So all I'm asking this committee to do is when we look at sales tax increases, sales tax decreases, tobacco taxes that are talked about multiple times, we have to look at this like we do sometimes with alcohol where a beer is taxed differently than a premium liquor. This is a premium cigar, and it should be treated differently. We are driving that \$300-- that cigar smoker to get from his house. He'll still come back to the establishment, but they're losing that sale. And that's forcing these businesses to really-- to go out of business or find creative ways to make it work. We shouldn't have to have that burden on small businesses. And with that, I'll answer any questions.

LINEHAN: Thank you, Senator Wayne. Questions from the committee? Seeing none, there were no letters. There were no letters. Thank you.

WAYNE: Probably the first time this year.

LINEHAN: With that, we close the hearing on LB429. Thank you all very much.