

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee March 7, 2019

BOSTELMAN: Welcome to the Natural Resources Committee. I am Senator-- Senator Bruce Bostelman. I'm from Brainard, Nebraska, and represent the 23rd District. I serve as the Vice Chairman of this committee. The committee will take up the bills in 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. The committee members might come and go during the hearing. This is just part of the process as we have bills to introduce in other committees. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence and turn off your cell phones. Introducers-- introducers will make the initial statements followed by proponents, opponents, and neu-- neutral testimony. Closing remarks are reserved for the introducer-- introducing senator only. If you are planning to testify, please pick-- pick up a green sheet, sign-in sheet, over by the door. That is, on the table by the back door-- by the back of the room. And please fill out the green sheet before you testify. Please print. It is important to complete the forum in its entirety. When it is your turn to testify, give the sign-in sheet to a page or to the committee clerk. This will help us make a more accurate public record. If you do not wish to testify today but would like to record your name as being present at the hearing, there is a separate white sheet on the tables that you can sign for that purpose. This will be a part of the official record of the hearing. If you have handouts, please make sure you have 12 copies. And give them to the page when you come up to testify, and they will be distributed to the committee. When you come up to testify, please speak-- speak clearly into the microphone. Tell us your name. And please spell your first and last name to ensure we get the accurate rec-- record. We will be using the light system for all testifiers. You will have five minutes to make your initial remarks to the committee. When you see the yellow light come on, that means that you have one minute remaining. And the red light indicate your time has ended. Questions from the committee may follow. No displays of support or opposition to a bill, vocal or otherwise, is allowed at a public hearing. The public or-- the committee mem-- members with us today will introduce themselves starting on my left.

MOSER: Mike Moser, District 22, Platte County, a little bit of Colfax County, and most of Stanton County.

HALLORAN: Good afternoon. Steve Halloran, District 33, Adams and part of Hall County.

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Natural Resources Committee March 7, 2019

QUICK: Dan Quick, District 35, Grand Island.

GEIST: Suzanne Geist, District 25 which is here in Lincoln on the east side of Lancaster County.

BOSTELMAN: And on my right.

GRAGERT: Tim Gragert, District 40 at northeast Nebraska: Cedar, Dixon, Knox, Rock, Boyd, and Holt Counties.

ALBRECHT: Joni Albrecht, northeast Nebraska: Thurston, Wayne, and Dakota Counties in District 17.

BOSTELMAN: To my left is committee legal counsel, Laurie Lage, and to my right is committee clerk, Mandy Mizerski. Our pages for the committee are Noah Boger, he is a freshman at UNL with a double major in public-- political science and French-- and French, and Hunter Tesarek. He is a sophomore at UNL with a double major in history and political science. And with that, I would invite Ms. Bohlmeier, legislative aide for Senator Hughes, to please come up and open.

JENI BOHLMeyer: Good afternoon, Vice Chairman Bostelman and members of the Natural Resources Committee. For the record, my name is Jeni Bohlmeier, J-e-n-i B-o-h-l-m-e-y-e-r. I'm Senator Hughes' legislative aide. The senator apologizes for not being able to be here with you today, so I'm here to introduce LB367 on his behalf. LB367 changes the sunset date on the Nebraska Litter Reduction and Recycling Fund from 2020 to 2025. The sunset date is typically extended every five years. This bill also strikes some language that allows the Legislature to transfer funds from this account to the General Fund. The Nebraska Litter Reduction and Recycling Fund has been in existence since 1979, and the funds for the program are collected from annual fees from wholesalers, manufacturers, and retailers of certain products. Last year, the Legislature transferred self-generated money from the Nebraska Litter Reduction and Recycling Fund to the General Fund for the first time in the fund's history. This bill strikes a language which allows for this to occur. If that trend continues, in essence, the annual fee assessed turns into nothing more than another tax. This bill prevents that from happening again, and will preserve the integrity of the fees paid into that fund. There will be others following me who are more well-versed in this program who can answer any questions you may have.

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Natural Resources Committee March 7, 2019

BOSTELMAN: Thank you, Ms. Bohlmeier. Are there any questions from committee? Seeing none, thank you.

JENI BOHLMeyer: Thank you.

BOSTELMAN: Would ask anyone who would like to testify as a proponent for LB367. Welcome.

JOHN LINDSAY: Thank you, Senator Bostelman, members of the committee. My name is John Lindsay, J-o-h-n L-i-n-d-s-a-y. I'm appearing as a registered lobbyist on behalf of the Nebraska Beverage Association. The-- the history of the litter reduction, as mentioned by Ms. Bohlmeier, goes back to a bottle bill that was rejected by the voters back in 1978. Part of those-- those who were campaigning against that bill, the message was, right problem, wrong solution. It was a first-generation response to a third-generation problem with some of the language. So the following year, in fulfillment of the promises that industry was-- was making during that campaign, we worked with environmental groups to say, how can we address litter as a problem? This program was created where we said, tax us. Use the money to reduce litter. And so I say, we came to the table, and said, let's do this for this purpose. That program has now been going on, I can't do the math in my head, but upwards of 35 years. I guess it's 40 years from '79. That program's been going on. It's been very effective. I would defer to those-- some of the groups that will be testifying to tell you about the successes. And it has done wonderful things. As Ms. Bohlmeier said, this was typically sunsets in five-- every five years. And it's-- it's reviewed every five years to give this committee an opportunity to look at the program every-- every five years, and say, hey, is it working? There was some concern with our industry about the bill this year for the reason that Ms. Bohlmeier said in her introduction. And that is that for the first time, the last-- over the last two years, this fund was swept of-- of \$1.2 million which reduced the grants that were available to do exactly the purpose of that grant. So we did consider maybe the sunset should just go into effect because otherwise we're just paying higher taxes if it's just going to the General Fund. And that's why this language is stricken that allows those-- by the way, this language was just inserted, I believe, last year to justify those transfers. And that's why it's stricken because historically, it was never on the board for those appropriations sweeps like so many other funds are. And I get that it's a tough job balancing the budget, but this was designated for a specific purpose. And that's why those-- those two changes are in the bill extending the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee March 7, 2019

sunset to-- to-- by five years. And by the way, it's-- instead of October 30, it's moved to September 30. That's just to align it with the fiscal quarter. And then the second change is simply to remove that language that was added in the last biennium. I'd be happy to answer any questions that the committee might have.

BOSTELMAN: Thank you, Mr. Lindsay. Are there any questions from the committee? Senator Geist.

GEIST: Just so that I'm-- I'm clear, did-- this would just renew the five-year sunset?

JOHN LINDSAY: Yes.

GEIST: OK.

JOHN LINDSAY: Yes.

GEIST: That's all.

BOSTELMAN: Senator Albrecht.

ALBRECHT: OK. So the \$1.2 million, why did they sweep it? Did you not-- what did they do with all that money before?

JOHN LINDSAY: It stayed in the fund and would be given out as grants to do recycling programs, litter reduction programs, things that would-- would address the litter problem. It was swept, possibly through just an error. And just over time, people-- people forget or don't have notes or somebody's replaced.

ALBRECHT: [INAUDIBLE]

JOHN LINDSAY: Yes. I think it was in error.

ALBRECHT: So will it come back to you, to be in that fund again?

JOHN LINDSAY: No. The \$1.2 million is--

ALBRECHT: Gone.

JOHN LINDSAY: --it's gone. And so we continue to pay every-- we pay that surcharge every year. And that would continue to accumulate, and then be-- then be sent out as grants to, and you'll hear it from, it-- it goes to-- well, keep-- keep whatever town beautiful. Organizations or-- recycling organizations out in your areas that are-- I mean, it's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee March 7, 2019

spent, all of this gets spent locally in-- in your districts. But no, that \$1.2 million was used to balance the budget over the past biennium, and it's not available anymore.

ALBRECHT: Thank you.

BOSTELMAN: Any other questions from committee? Seeing none, thank you, Mr. Lindsay. Anyone else-- anyone else who would like to testify as a proponent for LB367? Welcome.

MEAGAN DEICHERT: Hello. Good afternoon, Senators. My name is Meagan Deichert, that's M-e-a-g-a-n D-e-i-c-h-e-r-t, and I'm with Keep Nebraska Beautiful. We're the statewide affiliate and we support the 21 local affiliates who are doing a lot of the work throughout the state on litter reduction that's funded largely through these grants. I'm here today to testify in support of the bill and also answer any questions you might have about the history about the legislation and why some of those funds were taken out and with the impact that that had. Just quickly addressing your question, Senator Albrecht, about taking that \$1.2 million out.

ALBRECHT: Um-hum.

MEAGAN DEICHERT: From the legislative history, it looked like there was an understanding that that was some sort of excess or reserve that was in the fund. But that was not the case and most of our affiliates got cut 40 to 60 percent as a result of those cuts for the last two years, so their programs had to be cut. They had to reduce sometimes their own salaries, their staff, or, you know, whatever they could do to try to stay afloat until the funds were replenished again and then they could get back to operating at their normal budgets. But it did have a significant and a very trying impact on them for the last two years while they were trying to--

ALBRECHT: Um-hum.

MEAGAN DEICHERT: --work with those cuts that were taken out of the fund. So one of the other things that I wanted to point out is that-- just some of the programs that this fund is supporting and the importance of why we really believe that the Litter Reduction and Recycling Fund is doing a lot of good throughout the state. We do things like the Great American Cleanup which is going to be happening this spring, again this year. And all of our affiliates do litter cleanup programs throughout the state and either in town or on a trail

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee March 7, 2019

or on the road or wherever it's, you know, the biggest issue that they find they'll go and they'll do litter cleanups. We also do the International Coastal Cleanup which-- with more miles of rivers than any other state, everything that we put into those rivers has a huge impact on the ocean. So we do our efforts here and make sure that we get those cleaned up during that every September. We also do America Recycles Day on November 15 to try to encourage everybody to recycle right and recycle more. We also do a litter hotline in five counties across Nebraska so that whenever somebody sees someone throwing litter out of their cars, they're able to call us. And we work with the sheriffs to get those people notified that they're breaking the law and that their throwing litter out of the car is having a bad impact on our state. One of the other things I wanted to just quickly point out is that our affiliates do litter indexes to be able to identify just how much of an impact this is having. And we're able to look at that not just on our state, but nationwide. And since Keep America Beautiful, our nationwide affiliate, has been working on this, we've seen a 61 percent reduction in litter. So everything that our affiliates are doing is having a strong impact on our state and on a wider impact on the nation. And the one thing that we're starting to see increase is plastic litter. So that's going to be the next thing that we're going to really try to hit hard with, you know, the continuation of this litter grant and being able to do as much as we can to reduce the plastic litter and move that into recycling and keep everything going so that we can move forward with the progress that we've already had. And that-- with that, I'll take any questions that anybody has. That's my testimony.

BOSTELMAN: Wonderful. Thank you Ms. Deichert. Is that correct?

MEAGAN DEICHERT: Deichert. Yeah.

BOSTELMAN: Any questions from the committee? Senator Geist.

GEIST: Yes. Thank you. And thank you for your testimony. Can you just tell me how the grant system works?

MEAGAN DEICHERT: Yeah. It's refunded on a quarterly basis so that's why there's usually more money in the fund than it looks like. It looks like there might be excess--

GEIST: Um-hum.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee March 7, 2019

MEAGAN DEICHERT: --is because it's all, you know, being refunded, so it's not put out on a yearly basis.

GEIST: OK. That-- that explains a lot. Thank you.

BOSTELMAN: Other questions from committee members? Seeing none, thank you, Ms. Deichert, for your testimony.

MEAGAN DEICHERT: Thank you.

BOSTELMAN: Anyone else wishing to testify as a proponent for LB367?

JULIE DIEGEL: Good afternoon.

BOSTELMAN: Welcome.

JULIE DIEGEL: Thanks for letting me testify. I'm Julie Diegel, J-u-l-i-e D-i-e-g-e-l. I'm the executive director of the Nebraska Recycling Council. Nebraska Recycling Council is a statewide nonprofit that helps communities and business to improve practices and financial stability-- sustainability of their materials management programs, primarily recycling programs. We're here to express our support for the proposed changes in the Nebraska Litter Reduction and Recycling Act. We support the elimination of transfers from the recycling fund to the General Fund, and the extension of the act until September 30, 2025. These funds are needed now more than ever. Recycling has been-- always been more difficult in rural areas than in larger metropolitan areas because of the long distances materials have to travel and to-- in markets and materials recovery facilities and because smaller populations produce smaller amounts of materials. And these are commodities that come up for sale in the commodities market, so the more the better. In the last three years, there's been a perfect storm of additional burdens that has threatened the existence of many local recycling programs. One is the mater-- the China materials ban that began a couple of years ago. China has been the primary recipient of all of our waste from the U.S. for about 20 years. When they first started taking our waste, a lot of U.S. mills shut down because China could do things so much cheaper, so we shipped all of our commodities over there. Now they've decided that they have had enough of our trash, and they are not taking any more of it anymore. So it's really caused a lot of upheaval in the markets, and commodity prices are down. And that's making it much more difficult, again, for these rural areas to make the recycling programs work. Recycling, regardless, is important. And so many people, you know, want to recycle and really do

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee March 7, 2019

not want to see those recycling programs go away. It conserves resources, and it keeps materials out of landfills. And everyone knows how hard it is to site new landfills after they filled up, even in Nebraska. Second, freight is harder to come by now. There just are fewer drivers, so it's a lot harder for-- especially in rural areas, to get those commodities to-- to an end market. And you can get them there, but it costs a lot more. So that eats into the returns on investment that these communities have as well. Recently I've talked to recycling managers in David City, Broken Bow, and Mosaic in York, and they're all just on the verge of collapse unless their communities can support their-- their-- their system or find a way to-- to make their recycling processing more efficient. That's one of the things that Nebraska Recycling Council does, and we use these grant funds to be able to work with communities like that to help them figure out if there's a hub-and-spoke system that could be instituted. For example, we're working with the city of Norfolk to try to get a hub-and-spoke system set up there. Norfolk makes the most sense because they're the largest community, and they have-- they generate the most materials. And smaller communities around there can feed into their hub, and then they would be able to process and transport more materials to an end market. It just creates more efficiencies and financial stability that way. And we also spend a lot of our grant funds that we get on educating officials and the general public on how to recycle right so that contamination, which also kills the value of recovered commodities, so that if the materials are cleaner, it can go to market. The funds that help sustain the work of the Nebraska Recycling Council and Keep Nebraska Beautiful affiliates, as you have heard, have been cut by about 50 percent in the last couple years. And it's made it very difficult for organizations to do the work that is really, really needed now more than ever. So I strongly hope-- hope you consider the proposed changes.

BOSTELMAN: Thank you, Director. Is it Diegel?

JULIE DIEGEL: Diegel.

BOSTELMAN: Diegel? Thank you, Director Diegel. Any questions from committee members? Seeing-- oh, Senator Geist.

GEIST: Sorry. I have a question. Since the-- the commodities that we ship to China are no longer being accepted, do you foresee in the future, maybe not too distant future, that kind of industry taking up back up here in the United States?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee March 7, 2019

JULIE DIEGEL: I do, and it's already begun to happen. There is some lag time, so we do think that there will be some recovery. And there has to be. Luckily for us in the Midwest, we have not relied on the-- on the China market-- the markets-- overseas markets as much as the coasts have.

GEIST: Um-hum.

JULIE DIEGEL: So we have some established markets in the Midwest, but it's just-- it's a lot harder because all the prices have been driven down.

GEIST: Um-hum.

JULIE DIEGEL: And so you want to-- communities are just limiting-- limiting the types of commodities they're accepting or just eliminating some altogether.

GEIST: OK. Thank you.

BOSTELMAN: Senator Halloran. One more.

JULIE DIEGEL: Oh, sorry.

HALLORAN: Vice Chair Bostelman, thank you. Director Diegelman-- Diegel, excuse me. So what's the name of your nonprofit again?

JULIE DIEGEL: Nebraska Recycling Council.

HALLORAN: OK. Does any of the monies that come in the form of grants pay for the overhead for your nonprofit, in other words, salaries?

JULIE DIEGEL: Yes. Sure does. Right.

HALLORAN: OK.

JULIE DIEGEL: Yeah.

HALLORAN: Approximately how much would that amount to?

JULIE DIEGEL: I don't have that money or-- that figure in my head right now, but we are a member-based organization, so some of our revenue comes from memberships. More than 50 percent comes from grants. I don't have an exact figure in my head. I'm sorry.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee March 7, 2019

HALLORAN: OK. So some significant percentage of this grant goes towards overhead for your-- for your nonprofit.

JULIE DIEGEL: Right. Yeah.

HALLORAN: Thank you.

JULIE DIEGEL: Um-hum.

BOSTELMAN: Other questions? Seeing none, thank you, Director. If anyone else would like to testify as a proponent for LB367, please step up. Good afternoon.

LASH CHAFFIN: Good afternoon. Good, good after-- cold, snowy afternoon for yet another week in a row, but thank you. Good afternoon, committee, my name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n. I am a staff member at the League of Nebraska Municipalities. I also would like to offer my support for this measure. There are-- there are two-- two somewhat companion funds that cities and nonprofit groups access very regularly, and this is the first. The first one that was created was funded by the bottle-- bottle bill in the late '70s. And there's a second fund that looks similar but it does slightly different things that cities and villages regularly access. And it was funded during the late '80s when all the landfills had-- had to become regulated. It's got the tire tax and it's got all those. And both of these funds have proved to be extremely valuable over time. And-- and-- the Department of Environmental Quality staff has learned to really coordinate those funds and find particular packages for needs that they've-- that they've found across the state. And this fund is unique in that-- that-- one of the questions we get at the league on a regular basis is there's people-- there are people throwing stuff in the ditch. And, you know, and that's a tough one because law enforcement is strapped across the state and sometimes it seems like a low priority. But in fact, this is a serious-- serious issue. And there-- and this is a fund that off and on, over time, has been used for enforcement as well. And it's a-- it's a very valuable tool. And those of you who've lived in Nebraska for a long time know Nebraska-- Nebraska's done a great job in cleaning up our ditches over the last 25, 30 years. And this is-- this has been a big part-- component part of that too. And you know, the questions on the-- fascinate me, sitting in the back, it's-- the questions on recycling markets are fascinating, and that's another issue. Recycling markets have changed a lot in the last couple of years, and the people they've-- the market for end-use products has not kept up with people's desire to recycle.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee March 7, 2019

And this-- this is something that's creating-- at local governments this is-- you know, recycling programs were sort of a volunteer effort. Now they're becoming large-scale part of city and village government. And combined with the fact that any potential revenue stream is dwindling by the day and hopefully coming back, what-- what's happening is-- is these-- the recycling programs are-- they're becoming General Fund funded programs. I mean, there's no source of revenue out there to pay for these other than property tax, sales tax, you know, those-- those sort of funds. And-- and I know the cities do for-- for infrastructure and for, you know, programmatic items do rely, you know, it's a small portion of their budgets, but they do rely on both of the DEQ grant funds for these-- these important projects. And it's-- it's-- yeah, recycling markets, it's fascinating. I just don't think the general public understands how much has changed in the last few years, and the issues of, you know, it's mentioned by one of the prior speakers, contaminated waste. If-- if there's a load that's got some food on it and the end user doesn't want food on it, then we end up throwing those things away. So we-- we have to become smarter as a nation and hopefully smarter as a state and the-- in dealing with these issues. But I'll certainly answer any questions.

BOSTELMAN: Thank you, Mr. Chaffin. Is there-- any questions in the committee? Seeing none, thank you for your testimony.

LASH CHAFFIN: Stay warm.

BOSTELMAN: Anyone else would like to testify as a proponent for LB367? Seeing none, would anyone like to testify in opposition to LB367? Seeing none, anyone would like to testify in the neutral capacity on LB367? I have three rec-- three letters: one proponent from Scott Holmes, Lincoln-Lancaster County Health Department; Larry Dix, Nebraska Association of County Officials; and, Linda Behrns, Keep Cass County Beautiful. With that, that will end-- oh, sorry. Would you like to close Ms. Bohlmeier? She waives closing. That will now end our hearing on LB367. Thank you all for coming to your Natural Resources Committee today.