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**LINEHAN:** My name is Lou Ann Linehan. I'm from Elkhorn and represent the 39th Legislative District. I serve as Chair of this committee. For the safety of our committee members, staff, pages, and public, we ask those attending our hearings to abide by the following procedures. Due to social-distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that everyone utilize the identified entrance and exit doors to the hearing room. We request that you wear your face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding their testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which attendance reaches the capac-- seating capacity or near capacity, the entrance door will be monitored by the Sergeant at Arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter a hearing room are asked to observe social distancing and wear, wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the availability, due to the HVAC project, of an overflow hearing room for hearings which attract several testifiers and observers. For hearings with a large attendance, we will request only testifiers enter the hearing room. We ask that you please limit or eliminate handouts. The committee will take up the bills in the order posted. Our hearing today is for your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please turn off your cell phones. The order, order of testimony is introducer, proponents, opponents, neutral, and closing remarks. If you will be testifying, please complete the green form and hand it to a page when you come up to testify. If you have written materials that you would like to distribute to the committee, please hand them to a page to distribute. We need 12 copies for all committee members and staff. If you need additional copies, please ask a page to make copies for you now. When you begin to testify, please state and spell your first and last name

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for the record. Please be concise. It is my request that you list-- limit your testimony to five minutes. If necessary-- we will use the light system, so when it turns yellow, you need to wrap up. If there are a lot of people wishing to testify, we will use-- we don't have that today. If your remarks were reflected in the previous testimony or if you would like your position to be known, but do not wish to testify, please sign the white form on the table outside of the room by the entrance and it will be included in the official record. Please speak directly into the microphone so our transcribers are able to hear your testimony clearly. First, I will introduce committee staff. To my immediate right is committee counsel Mary Jane Egr Edson and to my immediate left is research analyst Kay Bergquist. At the far end to my left is committee clerk Grant Latimer. Now I'd like the committee to introduce themselves starting at my far right.

**PAHLS:** Rich Pahls, District 31, southwest Omaha.

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

**BRIESE:** Tom Briese, District 41.

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

**LINEHAN:** This morning our pages are over here. Thomas and Turner both attend University of Nebraska at Lincoln and both are studying political science. Please remember that senators may come and go during our hearing, as they may have bills to introduce in other committees. Refrain from applause or other indications of support or opposition. I would also like to remind our committee members to speak directly into the microphones. For our audience, the microphones in the room are not for amplification, but for recording purposes only. Lastly, we are an electronics-equipped committee. 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. So with that, we will open on LB292, Senator Friesen. Good morning.

**FRIESEN:** Morning. Chairwoman Linehan, members of the Revenue Committee, my name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n. I represent

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the 34th District and I'm here today to introduce LB292. So LB292 is the same bill-- LB110-- LB1087 that I introduced last year. It would require county treasurers to accept partial payment of property taxes. Currently, treasurers may accept partial payments when authority is granted by the county board. If such authority is granted, the treasurer must collect the payments in corded-- in accordance with the resolution adopted by the county board. They hold the payments until all payments are collected to pay at least one-half of the taxes currently due on the property or the full amount of the delinquency and any interest penalties or other charges due to the delinquency. The resolution may also require minimum payments by the taxpayers and an escrow agreement to be executed between the person making the payment and the county treasurer. What LB292 does, it takes the county board out of the equation and it requires the treasurer to allow for partial payment for property taxes by many of the same processes outlined in the current statute. And there's some confusion across the state as to which counties currently allow partial payments. I've been told that some county treasurers allow for partial payments even though they lack the required resolution from the county board because either no resolution exists or it was adopted and can't be found. A lot of this is due to turnover of county officials over the years and LB292 also provides taxpayers an option to pay their taxes if they don't have the full amount when they are due. What happens now is when a partial payment comes in-- and I'll kind of walk through a process of the possibility of what could happen in a county that doesn't accept partial payments. So let's say you're a, a landowner and you live in Texas or Florida or somewhere where they don't charge income tax. You stop paying your property taxes and they have to be paid on time before that delinquent due date. So let's say that you're in-- living in Florida and you have a-- \$50,000, \$60,000 of property tax payment to make and you make out your check and you're-- turn two numbers around and you're \$10 short. You mail the check to the treasurer and you mail it ahead of time, but it gets to the county treasurer and they look at it and say huh, you didn't send in the right amount. It's there before the due date. What they do then in some counties, they put it back in an envelope and they mail it back to you and so now you're delinquent. By the time that check gets returned to you, it could be two to three weeks. You might be on vacation, might turn into a month. And so then you're required to send in the exact amount due again. So you have to call them, get an interest payment. That will be for the due date of when you're going

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to mail it, I believe, when it's postmarked. And again, if you get the amount wrong-- in the meantime, you've been paying 14 percent interest. You get the amount wrong and they're going to send a letter back again. So if your letter doesn't get postmarked that day, gets postmarked a day later, now there's one day's interest, they'll reject your payment and send it back to you. So this just clarifies that all counties are going to accept partial payments. This isn't a way to get out of your property taxes or anything else. And, and there's a little confusion maybe on when the interest starts and stops when you're delinquent like this and I'm sure we're going to hear from some county officials on how that process works, but this just makes it clear that all counties will accept those partial payments and gets that process going and makes it so that it's in statutes and they're all following the same rules. Because right now, I do believe there are-- some counties have accepted partial payments if you're off 20 cents. I know my county just calls me up and I send them an extra check. It's not as though it's forgiven, they just see the mistake. They accept the check, consider it paid, but again, I don't know the process they're using in-house, but others do not follow that same procedure, so this will just standardize it across the state. And if you have any questions, I'd be glad to answer them.

**LINEHAN:** Thank you, Senator Friesen. Questions? Senator Pahls.

**PAHLS:** Thank you, Chair. I have a question. I'm just looking at Douglas County. They said that's-- it's going to cost them \$300,000 and they also talked about-- and I, I, I don't have that information, but their 50-year-old mainframe may be in trouble. Like earlier on the floor, we were talking about it. Some of our government systems are way out of date. Would this affect that or are they looking at this in a different--

**FRIESEN:** See again, I have no idea how Douglas County does it right now and so I-- all the other counties, it seemed like the costs were going to be negligible.

**PAHLS:** OK, what-- that would be a question for me to ask--

**FRIESEN:** Yeah, it's a good question for Douglas County.

**PAHLS:** Thank you.

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**LINEHAN:** Thank you, Senator Pahls. Other questions from the committee? Senator Albrecht.

**ALBRECHT:** Thank you, Chairman Linehan, and thanks for bringing this bill. So if they made a partial payment, would they pay 14 percent interest on the other portion that they didn't?

**FRIESEN:** That, that's something you'll have to ask the counties because if somebody intentionally sends in less than the required amount, I mean--

**ALBRECHT:** Right away it starts ticking?

**FRIESEN:** Yeah, I, I, I do think the, the tax bill is still delinquent. It's not been fully paid, so I would assume interest either gets charged on the full amount or on the partial amount, that I'm not sure about--

**ALBRECHT:** OK.

**FRIESEN:** --but again, somebody who does not-- you know, intentionally doesn't pay their taxes, I have no problem with them being charged interest. When, when it's-- you know, if you send in half or three-fourths of the amount, that's not what this is about, really. This is about-- for somebody that-- the person I'm after is the one that does send in what he thinks is the right amount for it and it's not and they just reject this payment and suddenly you got two to three weeks of interest on it.

**ALBRECHT:** OK, so you're, you're thinking about people that are not doing this intentionally. It's just a mistake. But if this were to pass, could you see other people maybe just wanting to pay a portion of it and not--

**FRIESEN:** I'm sure there's people that do that now already. If you don't have the money to pay it, I don't know whether you're-- if people are willing to send in a partial payment now already to, to--

**ALBRECHT:** OK. Good question.

**FRIESEN:** --make a down payment. And it sounds like from some counties, they do work out a payment plan.

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**ALBRECHT:** OK.

**FRIESEN:** Now I don't want them to be acting as a bank either.

**ALBRECHT:** Right.

**FRIESEN:** So that isn't my goal, is to suddenly allow people to make monthly payments. And, and again, I think people need to pay it on time, but there just needs to be consistency across the state on how treasurers are going to handle these payments.

**ALBRECHT:** OK, got it. Thank you.

**LINEHAN:** Thank you, Senator Albrecht. Other questions from the committee? Seeing none, thank you very much. Our first proponent. Are there any proponents? OK, opponents, are there opponents? Good morning.

**JON CANNON:** Good morning, Chairwoman Linehan. Distinguished members of the Revenue Committee, my name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials, which I will refer to as NACO. I'm here to testify in opposition to LB292. I've visited with Senator Friesen about this issue several times. He understands where our opposition coming-- is coming from. And I, I do want to thank him sincerely for, for bringing this because I, I think it's very important for us and members of the committee to have kind of A to Z sort of conversation about what our tax system looks like because it, it is one of those things that is, is fairly Byzantine, but, but we didn't get there by accident and so I, I wanted to be able to make sure that we're, we're fully vetting how we do the things that we do. Really, this issue is-- comes down to a local control issue. What we have in the law currently is we say that county boards can determine whether or not, by resolution, they want to allow for a partial payment. And there are many reasons why they might and there are many reasons why they might not. As Senator Friesen alluded to earlier, we don't want to have our county treasurers acting as a bank. You know, we don't-- ordinarily under this law, the-- how it's written, what our treasurers would be doing is they would be merely holding payments until the payment was made in full. And so interest is going to continue to run on the full amount and that's-- and, and-- however, where I, I have-- make common cause with Senator Friesen is the fact that it's probably not very

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consistent across the state. And some consistency is probably something that's, that's necessary to have in this arena, but my understanding, based on the conversations I've had with county treasurers association, is that interest is going to continue to run as I had said. You know, this is the sort of thing where when you have those agreements in place, our experience has been that people will just no longer make the payments. And so the county treasurers and the response is in the position of having to track down each of those payments that are supposed to have been made. And so again, this is not the position that we typically want to have our county treasurers in. We want to treat all the taxpayers the same and so that's why, you know, the-- probably one of the biggest reasons that we would prefer to leave the system as it is in place. We would be interested in looking at alternatives. However, one of the things that Senator Friesen, I, I think, signaled in his testimony this morning is that there's not full knowledge by every county across the state and, and I can attest to that. When we have gone to some of our county treasurers and asked them, well, you know, do you guys have a resolution in place? They've said what resolution? There have been times we've gone to our county clerks and said do you have a resolution in place? And some of them have said what resolution? And so if there's a way that we can engineer something where on a fairly consistent basis, we're, we're putting it in front of the county boards for them to determine whether or not they want to pass that resolution, we would certainly be interested in exploring that alternative. But as far as this legislation is concerned, we'd, we'd really like to have further conversation before we did anything further with the current system. With that, I'd be happy to take any questions. Thank you.

**LINEHAN:** Thank you, Mr. Cannon. Are there questions from the committee? I think you just said we should treat all taxpayers the same?

**JON CANNON:** Yes, ma'am.

**LINEHAN:** But we're not if different counties-- if 93 different counties can do it differently.

**JON CANNON:** And I, I, I agree that we, we probably do want to work toward uniformity. This bill doesn't quite get us there and I'd, I'd love to have the conversation about how we do get to a degree of uniformity.

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**LINEHAN:** Did you look at the fiscal notes on these bills?

**JON CANNON:** Yes, ma'am.

**LINEHAN:** So-- have you got it in front of you?

**JON CANNON:** I do.

**LINEHAN:** So the one from Lancaster County--

**JON CANNON:** Yes, ma'am.

**LINEHAN:** --it says it's going to be General Fund expenditures of \$500,000 and then you look below and it says that add accounting clerk, one position, and then it's \$41,000, benefits, \$14,000, and it adds up somehow to \$444,000?

**JON CANNON:** I think that that \$444,000 is their operating costs. I, I, I, I think that it-- what they would have to do is they would have to rework certain components of their tax collection system. I think they'd have to have some programming charges as well and I think that the \$41,000 plus the \$14,500 plus the \$444,500 would equal the \$500,000.

**LINEHAN:** OK, thank you for the clarification.

**JON CANNON:** Yes, ma'am.

**LINEHAN:** So you do think there is a problem here if somebody makes a mistake with putting the wrong amount of cents and the county treasurer sends it back. I mean, I don't even understand if you had-- if you have, like, \$10,000 payment in your hands and the payment is \$10,002. What business would send back \$10,000?

**JON CANNON:** Well-- and again, ma'am, the way that this bill is written, if, if, if we require the county treasurer to hold it, all they're going to do is hold it until they get that \$2 check to make up the difference and then they're going to deposit it to satisfy the first-- you know, the first half or the second-half amount for the delinquency and so interest is going to continue to--

**LINEHAN:** They're going to hold it. I'm sorry. Go ahead.



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**JON CANNON:** Oh and so ordinarily, any other business, one that, that advertises payments, for instance, is, is set up for those sorts of things. Any other business, it-- they probably would hold onto that and they would say OK, well, we've-- \$10,000 is in satisfaction of your \$10,002 payment and we're going to charge interest on the, the remaining \$2. The way our law is structured, however, we don't do that. It's-- all the county treasurer is going to do is hold onto that check. And then when the other \$2 check comes in, then they'll deposit the amount in full in satisfaction and, and assuming that it covers the interest and so if it doesn't, then that's another problem.

**LINEHAN:** So if we, if we change the law so that they can accept the \$10,000 and put it in the bank, then we could move forward with this?

**JON CANNON:** Well, I, I think we'd want to have a further conversation. We'd be talking about a different bill at that point.

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

**JON CANNON:** Yep. Thank you, ma'am.

**LINEHAN:** Other opponents? Are there any other opponents? Anyone wanting to testify in the neutral position? Senator Friesen, would you like to close? Senator Friesen waives closing. We had no testimony submitted for the record and we had no letters. So with that, we'll open on LB367, Senator Briese. Good morning.

**BRIESE:** Thank you and good morning, Chairwoman Linehan and members of Revenue Committee. I'm Tom Briese, T-o-m B-r-i-e-s-e, and I represent District 41. I'm here today to introduce LB367, a bill which would impose a 20 percent tax on the net revenue of cash devices as they are defined in Section 1. The taxes collected from these machines would be remitted for credit to the Property Tax Credit Fund. In 2011, the Nebraska Supreme Court ruled on-- in American Amusements vs. Nebraska Department of Revenue and established that an activity in-- is gambling in Nebraska if its outcome is predominantly caused by chance and therefore illegal. However, if the outcome of the activity is predominantly based on the skill of the player, it is a game of skill and therefore allowed. In that particular case, BankShot was the game that was found to have one mode of play that was determined to be a game of skill. In 2019, the Legislature passed LB538, which provided

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further clarity and regulation for games of skill machines or cash devices. A separate and more thorough regulatory and application process for cash devices within the Mechanical Amusement Device Tax Act was developed, which included an application process that required a \$500 application fee, a specimen of the device, information regarding the location of the device, software, Internet connectivity and configuration, supporting evidence that the device is a game of skill and not chance, and an affidavit from the distributor that no functional changes would be made without further approval of the Tax Commissioner. Once an application was approved by the Department of Revenue, an annual \$250 fee is required for a decal showing the device is in compliance with the act and that it is a game of skill and not a game of chance. LB538 also limited the number of these cash devices within a particular establishment, set an age limit of 19 years or older to play, and specified that these devices could only be played with cash. No credit or debit cards to be allowed in their use. These cash devices are what this bill targets and I do want to note that Section 1 of the bill appears to amend 77-3001. In reality, Section 1 reflects the language of LB538, which we passed two years ago. When the voter initiative on gambling was written, the Drafters did not use the most up-to-date language that was passed in LB538, which resulted in the necessity of correcting the language passed by the voter initiative to include what was passed by the adoption of LB538. This was done with LB1, which was a Revisor's bill. Section 1 of LB367 here contains identical language to LB1, the Revisor's bill, but is a duplicated to-- here to ensure that one of these bills gets all the way through the process of being adopted. If LB1 gets passed on Final Reading, is signed by the Governor, we can strike the language found in Section 1 of this bill if desired. In other words, it won't be necessary. But that's maybe a little more background than anybody needed, but I, I, I do believe that a tax on these machines is reasonable, as such devices are found in bars, gas stations, and VFWs as a way to bring people in, make extra money for the owners of the machines and establishments that house them. Other states authorize and regulate these devices and also tax their revenue. For example, Arkansas taxes the net wagering revenue from its electronic games of skill at 18 percent. And I would note that the voter-approved racetrack casino initiative imposes a 20 percent tax on the revenue of all gambling devices at those casinos. I would submit it's only reasonable to land here on 20 percent also to reflect a consistency with the casino tax. The 20 percent tax, the net revenue from these

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devices under LB367 would be paid quarterly by the operator of the device. The Department of Revenue would provide a forum to be used for the submission of this tax. The revenue would then be credited to the Property Tax Credit Fund. And I would urge your support of this proposal. With that, I'd be happy to try to answer any questions.

**LINEHAN:** Thank you, Senator Briese. Are there questions from the committee? You said they couldn't use-- they couldn't-- they have to use cash, but there's no rules, is there, that there can't be an ATM sitting right by the machine?

**BRIESE:** Yeah, there could sure be one right there, you bet.

**LINEHAN:** That's been my experience.

**BRIESE:** No, no credit or debit cards.

**LINEHAN:** But an ATM can be handy.

**BRIESE:** Sure, sure.

**LINEHAN:** All right, thank you.

**BRIESE:** You bet. Thank you.

**LINEHAN:** Are there proponents? Are there any proponents? Good morning.

**DAVID GEIER:** Morning, Chairwoman Linehan, members of the Revenue Committee. My name is David, D-a-v-i-d, Geier, G-e-i-e-r. I'm director of the Nebraska Gamblers Assistance Program, testifying today on behalf of the Nebraska Commission on Problem Gambling. I'm appearing in support of LB367 and offering a suggestion for your consideration as you work on this bill. I'm asking Senator Briese and the committee to consider allocating a share of the proceeds from this tax to be transferred to the Compulsive Gamblers Assistance Fund. We have a tradition in Nebraska of doing this. Since 1993, some of the government profits from gambling have been devoted to providing help to people who get in trouble by gambling. And I met with Senator Briese about ten days ago to discuss this proposal and at that time, I told him I did not plan to testify, but I decided that I needed to make a record for this committee on behalf of the Commission on Problem Gambling. First, I want to tell you a little bit about this program. Some of you are not familiar with it. We have a full-time

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staff of two here in Lincoln and we issue contracts to counselors who offer assistance to Nebraskans and their families having problems due to gambling. We help about 500 individuals each year from offices in Lincoln, Omaha, Norfolk, O'Neill, Chadron, North Platte, Kearney, Grand Island, and Beatrice. The program was started in 1993 when the state lottery started. At first, it was situated in the Department of Revenue and after a couple of years, was moved to Health and Human Services and it stayed there until 2013, when it was moved again and placed under the oversight of the Independent Commission on Problem Gambling. The commission was created that year in 2013. It's a commission of nine members appointed by the Governor, confirmed by the Legislature. This year, the program's revenue will be about \$1.8 million. It's a cash-funded program paid for mainly with revenue from gambling. In the beginning, the appropriation was equal to 1 percent of lottery profits. Over the past 27 years, revenue sources have been amended several times as legislatures have responded to the needs of Nebraskans affected by state-sponsored gambling. Today, the constitution requires the transfer of the first \$500,000 of lottery profits, plus 1 percent of the remainder into the Compulsive Gambler Assistance Fund. In a typical year, this equals about 2.25 percent of lottery profits. The new casino initiative just passed transfers 2.5 percent of casino tax to the program. In the current biennium, the Legislature has also appropriated \$400,000 of the charitable gaming tax and that's about 6 percent of the annual collections from that tax. That's mainly on keno gambling. Senator Briese's proposed tax would apply to one of the newest forms of gaming in our state. I'm going to say that the issue of gaming versus gambling is kind of muddy in Nebraska law right now. These devices, known as video game terminals, have been distributed in many states around the nation and from what I can tell, virtually every state where they are found considers them to be gambling devices. Our neighbors in Iowa have been on, on top of these devices for many years. The Iowa Supreme Court recently ruled that these are gambling devices. I have given you a handout that shows you the effect in our state of these devices. The first page of the handout shows you where they were and how many there were about three years ago. Second page shows you the proliferation of them up to this past January. They more than doubled in number in that period of time. And the third page is a bar graph that shows you the impact on our program's services. People gambling on these devices-- and I'm going to call it gambling-- people gambling on these devices are getting into trouble. At the left side of this bar graph, do you

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see that casino slot machine gambling accounted for about-- almost ten times as many problem gamblers as these devices do? But over the years, that has shifted. To the right side, you see that just in the past six months, seven months, the number of people coming to our program, getting in trouble playing on these devices has increased dramatically. That's why we asked for a transfer of this money.

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

**ALBRECHT:** Thank you, Chairman Linehan, and thank you for being here today. Can you tell me if these devices that you're showing here that have increased-- since '18, 1,558 new machines are out there. Are these games of skill or games of chance or both?

**DAVID GEIER:** As I said, the-- that issue is kind of muddy under Nebraska law right now. I can tell you that the people who play on these games play in the same fashion that slot machine gamblers do in a casino. Our counselors talk about their clients sitting at that device, pushing the button over and over and over again, just as if it was a slot machine. It looks like a slot machine. There's a screen that has an image on it that imitates the spinning reels or the movement of slot machine. However, again, under the current law, LB538 passed two years ago, tries to create a distinction between games of skill and games of chance. And I think that as the Department of Revenue works their way through the enforcement of that, the whole picture may change somewhat, but again, as I have already said, virtually every place in the nation sees these things as gambling devices.

**ALBRECHT:** Thank you.

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

**FLOOD:** Thank you, Chair Linehan, and thanks for your testimony today. So how much-- what, what does it take for you to operate this, this agency?

**DAVID GEIER:** Our annual appropriation is about \$1,950,000, but our--

**FLOOD:** And then that includes the lottery money, right?

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**DAVID GEIER:** Yeah, lottery money, but our revenue doesn't match the appropriation. We don't have enough revenue to be able to-- we have revenue about \$1.8 million. From the lottery, it's about \$1.2 million. That's a combination of two different streams of revenue; \$400,000 comes from charitable gaming, which is--

**FLOOD:** So that \$1.8 million or \$1.9 million is inclusive of everything you get?

**DAVID GEIER:** Yeah, \$1.8 million right now.

**FLOOD:** And how much of that is salaries?

**DAVID GEIER:** The, the PSL, between salary and benefits, is about \$170,000, just about 8 or 9 percent, 7 or 8 percent, something like that, two full time.

**FLOOD:** And then the balance of that goes to counselors to provide help to--

**DAVID GEIER:** Yeah. In fact, our appropriation is earmarked, so it's about \$1.2 million. About two-thirds of our, of our entire budget is for counseling services directly-- paid directly to counselors who work with Nebraskans.

**FLOOD:** So what would you do with this money if, if you were-- if we passed this bill, what would you do--

**DAVID GEIER:** It would go--

**FLOOD:** --if you were given a portion of the proceeds?

**DAVID GEIER:** It would go right back into the money that we use for counseling services.

**FLOOD:** Would you add any staff?

**DAVID GEIER:** No, no. We have no, no, no expansion at all. We need to add more counselors is what we need to do.

**FLOOD:** Is your, is your demand outpacing your resources?

**DAVID GEIER:** It's, it's tight, let's put it that way. We have had to institute some cost cutting in the past 12 months. We've put some

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restriction on counseling services. You might call it rationing. We're trying to stay within the revenue limits that we're under right now.

**FLOOD:** So when, when you provide counseling, how effective is it? Does it, does it--

**DAVID GEIER:** This is an addiction service. It's almost impossible to validate the benefit of it, but our counselors work with people until they get to the point of what we call a recovery. So we start them off, they're tested for their, their behavior based on DSM standards, and when they get to a point where they're no longer gambling or they're, they're gambling so little that is not a problem for them, then we think that we've been successful. Unfortunately, in this program, like many addiction services programs around the nation, there's a high rate of attrition. People will come in and start and then they'll just quit showing up. There's a lot of relapse problems with it, again, in particular with gambling because it is promoted at various levels, in essence by government, at least in some, in some fashion. So it's, it's an ongoing, current, continuous problem.

**FLOOD:** Thank you.

**DAVID GEIER:** But to pronounce somebody cured, as you would do if you were curing an infection or a broken leg, there's no, there's no objective standard of a cure for this.

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

**BOSTAR:** Thank you, Chair Linehan. Thank you, sir. Am I correct in my understanding that currently, this bill wouldn't provide any-- all of the revenue in the bill, as currently written, would go to the Property Tax Credit Cash Fund?

**DAVID GEIER:** That's correct.

**BOSTAR:** So you are, you are interested in, in an amendment?

**DAVID GEIER:** That's correct and I-- again, I spoke to Senator Briesse about that briefly.

**BOSTAR:** Just-- what do you, what do you-- let's say the bill were to advance in its current form. Do you have a, a position on it?

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**DAVID GEIER:** I'll leave that up to the committee. If the committee decides to advance the bill as is with no amendment, then we'll live with it. We're not-- it's not our position to try to tell the Legislature what to do about anything. We offer suggestions and information and that's it. It's not a job of an agency to come before you and instruct you about how to do it. That's how we see it. We're offering a proposal, an idea.

**BOSTAR:** Thank you very much.

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

**DAVID GEIER:** Thank you.

**LINEHAN:** Appreciate it. Are there other proponents? Are there any other proponents? Are there any opponents?

**WALT RADCLIFFE:** Good morning--

**LINEHAN:** Good morning.

**WALT RADCLIFFE:** --Senator Linehan and members of the committee. My name is Walt Radcliffe, W-a-l-t R-a-d-c-l-i-f-f-e. I'm appearing before you today as a registered lobbyist in opposition to LB367 on behalf of American Amusements. American Amusements is a Nebraska company based in Bellevue and its founder and president is going to follow me and discuss this measure as well. American Amusements what-- was mentioned, I believe, by Senator Briese. They were part-- they were the litigant in a case that went to the Nebraska Supreme Court that found that a game called BankShot is a game of skill and therefore permissible under, under Nebraska law. It's the only, it's the only game that I'm aware of that has been declared to be a game of skill. Game-- slot machines are a game of chance. And until the initiative was passed this last fall, slot machines were illegal in the state of Nebraska. Now they would be legal in licensed racetrack enclosures. But if you-- just to give you the lay of the land, go out, go-- you go out of Nebraska and you are going to see a lot of devices. You can call them video games, video machines, gray-area machines. At the end of the day, I will submit to you that any of those devices that isn't a BankShot device is an illegal gambling device. Illegal-- it's a slot machine. Senator Albrecht recognized that two years ago



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and introduced a bill and ultimately, LB538 passed. And what LB538 did-- and, and, and Senator Briese has referenced it. First section of LB367 is accurate. It said these are what games of skill are and said that the Revenue Department should promulgate rules and regulations and would issue a stamp to be placed on those machines, which makes enforcement very easy. Go out, you see a machine doesn't have a stamp, you can confiscate it. To date, the Revenue Department has not-- and this isn't a slam on them. It's just a recognition of reality-- they, they have not licensed any machines yet because they haven't gotten the rules and regulations promulgated, so we're still in the process of doing that. Now they pay \$250 for a stamp. Very honestly, the reason that is done is so the state collects money and doesn't have an enforcement problem. If you think you're going to get a 20 percent tax on an illegal slot machine and raise \$4 million, come talk to me after the hearing. It isn't going to happen. The system that Senator Albrecht set in place to test, stamp, and regulate the various machines that are out there is the way to do it. Now we're going to have a whole new world when we have, when we have casinos and tracks, but that's a different deal. That is an entirely different deal. Senator Briese, his heart is in the right place on this in that if you could actually go out and get 20 percent from these illegal machines for which there is-- you know what the accounting is? Well, that guy that brought on the machine comes in and says Joe, let's sit down and count. You know, here's two for you, three for me, four for you, five for me. That's the accounting. In reality, that's what you're dealing with. So what-- all LB367 is going to do is going to punish my client, American Amusements, who went to the Supreme Court, who got their machines declared to be a game of skill. And I've told John this, I've said it's got to be a game of skill because it's too boring. It can't be a game of chance. But, but seriously, that's all this bill is going to do. It is, is going to penalize somebody who went to the time and the trouble and was innovative enough to come up with a game of skill that can be marketed and placed in Nebraska. So I would urge you not to advance LB367. Let us continue to work with the Revenue Department and get LB538 implemented, get the stickers implemented, and ensure a real course and a real stream of revenue for the state. I'd be happy to answer any questions, Madam Chair.

**LINEHAN:** Thank you. Are there questions from the committee? Senator Albrecht.

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**ALBRECHT:** Well, thank you for your clarification. I can't believe it's been two years and the Revenue Committee has done-- or the revenue agency, if you will, has not taken it upon themselves to do any more than just get a stamp on each of these machines.

**WALT RADCLIFFE:** Well, well, Senator Albrecht-- and somebody can speak more-- probably more fully and accurately than I can. They have promulgated rules and regulations, some of which are being litigated, I, I mean-- but that's going to happen with anything. Now they have not-- and, and Mr. Fox can verify this-- they have not approved any machines, so there aren't any machines that are legitimately stamped out there right now--

**ALBRECHT:** So--

**WALT RADCLIFFE:** --and--

**ALBRECHT:** So why did, why did we enact LB538 if they were not going to follow through and do what--

**WALT RADCLIFFE:** I think they're--

**ALBRECHT:** Here's my thing. Game of chance, game of skill, we had a lot of people who are not for gambling that voted for that particular bill for those reasons, but if we have not done anything at this point--

**WALT RADCLIFFE:** I think the Revenue Department is proceeding at-- in a reasonable, in a reasonable manner. We can argue that they're taking too long. I don't know that they are or not. I've always found them to work in pretty good faith, regardless of who's down there. I think the Revenue Department does, does its job well. Do I wish we would have gotten some more machines stamped? Yes. But one of the problems-- and Mr. Fox can speak to this-- is it is not an easy process to get the experts to come in and determine whether some-- or not something is a game of skill or chance. That's what the Revenue Department is having to do with every machine except the BankShot machines.

**ALBRECHT:** OK, but, but we knew that this was coming, that they're going to have to be taxed. I mean, how could somebody have a machine in their, in their establishment and not have to pay any-- anything to the state of Nebraska? If I win \$2,000 and I don't have to pay anything to the state of Nebraska, I'm not in it. So I think whatever has happened in LB538 and, and people have not been able to collect,

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if we have 1,500 more of these machines that are out there, I mean, do you know? Did 1,500 more machines come online in the last two years--

**WALT RADCLIFFE:** Well, first of all--

**ALBRECHT:** --that are just game of skill?

**WALT RADCLIFFE:** --they don't come online. They're all--

**ALBRECHT:** No, they're not-- I, I get it.

**WALT RADCLIFFE:** --a standalone deal, as you and I know.

**ALBRECHT:** I get that, but are you telling me there's 1,500 new BankShot machines that are out there and nobody's collecting anything on it?

**WALT RADCLIFFE:** No, I'm not telling you that. First of all, there are not 1,500 more BankShot machines out there.

**ALBRECHT:** So, so there could be the gray machine as well?

**WALT RADCLIFFE:** Yeah and I would-- well, Mr. Geier's statistics have always been reliable. I have no reason to doubt whatever, whatever Mr. Geier is telling us in that regard. Yes, there are that many and, and those machines-- I'll put on my client's hat-- compete with his devices.

**ALBRECHT:** OK.

**WALT RADCLIFFE:** There are illegal-- we have a significant enforcement problem in Nebraska with illegal slot machines. Now why do we have it? It's not because Revenue isn't doing its job. It's not because the Patrol or sheriffs are lazy. It's because there is a significant burden of proof to meet. Now interestingly, the BankShot machines were confiscated. Mr. Fox had to go to court to get them back. I could ask a rhetorical question as to why some of these other machines haven't been confiscated--

**ALBRECHT:** Um-hum.

**WALT RADCLIFFE:** --forcing the owners to go to court. They won't go to court. They'll go to another state.

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**ALBRECHT:** OK. Thank you.

**LINEHAN:** Are there other questions from the committee? How many machines does American Amusement have?

**WALT RADCLIFFE:** I'm going to let Mr. Fox answer that--

**LINEHAN:** OK.

**WALT RADCLIFFE:** --Senator Linehan. He can give you a very accurate number.

**LINEHAN:** OK. All right. Seeing no more questions, thank you for being here.

**WALT RADCLIFFE:** You-- thank you.

**JOHN FOX:** Good day, senators. My name is John Fox, F-o-x. I'm here to represent American Amusements, who is the developer/manufacturer of a game called BankShot and subsequent therein. I wanted to start off by answering Senator Albrecht's question. As, as of three weeks ago, there were 997 BankShot games in Nebraska. There are probably 20 or 30 more after part of the process of LB538 has taken place. Some games, some games have left the state. And large point I want to make is LB538 is in, in process. Revenue unveiled rules early last March. They were for discussion. We all know what happened very shortly after that. COVID changed everything, slowed everything-- and frankly, the world down. They revealed rules this February. The, the process is in, is in play. American Amusement sent a game to the testing facility of, of Revenue's choice in early December. I understand there are, are two or three other manufacturers that have done that, maybe in-- maybe more than that. Revenue's list said it was not exhaustive, so the process is in play. I want to correct the earlier speaker. BankShot has, BankShot has been declared a lawful game of skill by the department of inspections and appeals in the state of Iowa, so all games under Nebraska are not games of chance in Iowa. BankShot stands out as being the only game that's available in Nebraska that was declared a game of skill in Iowa, as it was declared a game of skill in Nebraska. We supported LB538 because just paraphrase-- paraphrasing Loran Schmit in his op ed said many of the games were thinly veiled slot machines. He was absolutely right and some of them don't even have thin veils on them. And there's a substantial separation, legally

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and functionally, in a game of skill and a game of chance and ultimately LB538 and Revenue-- and I understand your frustration with the, with the time, but that's going to get resolved and I certainly hope that's going to be resolved and resolved in a manner that's appropriate for, for the criterias in LB538, which were essentially just taken out of Nebraska jurisprudence and, and, and laid out in a, in a form. But at this moment today, we have submitted to the, to the, the, the LB538 process. There are no games that are approved. How many games will be approved or how many manufacturers is going to depend on how well the standard is upheld and what manufacturers do and that picture will, will be almost certainly very, very different a year from now than what it is now. And a year from now, you're probably going to look-- be looking at actual games of skill as opposed to games that were, were kicked out of other states and surrounding states and brought here because of lax enforcement. So we really don't know what the landscape is going to be like a year from now and, and a game of skill is, is-- an example I'll use under the cash device-- if you offered a cash prize on a skeeball, it would be a cash device and fall under this heading. There, there are games of chance and there are games of skill and there are various legal distinctions between the two. And I'd be happy to take any questions.

**LINEHAN:** Thank you, Senator Albrecht [SIC]. Are there other questions from the committee? Senator Flood.

**FLOOD:** Thanks for your testimony. What do you think that the expanded gambling of horse tracks is going to do to your, your business if that's, if that's a fair question--

**JOHN FOX:** For-- I, I think the-- I think in our product, which people play-- our customers and our, our patrons play because they, they control the outcome and I don't know in our product that that's going to affect us. Now granted, some money is going to come out of the economy here and here and, and you could argue that a new brand of potato chips will affect you, but it-- there are apple and orange there, so I don't expect a dramatic change.

**FLOOD:** Thank you.

**LINEHAN:** Thank you, Senator Flood. Other questions? Senator Albrecht.

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**ALBRECHT:** Thank you, Chairman Linehan and thanks for being here, Mr. Fox. Not picking on this whole thing, but, but I get a little irritated when we pass bills and nothing happens. You know, it is just the process, so, so excuse the frustration I have.

**JOHN FOX:** I, I-- excuse me, I don't mean interrupt-- I am frustrated with the speed of which Revenue has gone, but I recognize it's, it's in process and it is going to get done, but there's been a lot of days when I've been as frustrated and more frustrated as anybody in this room.

**ALBRECHT:** Good, good, so maybe we can work something out here. So, so you-- your folks that have purchased only 39 in the last two years, new machines?

**JOHN FOX:** No, in the last few weeks, I'm sorry.

**ALBRECHT:** In the last few weeks. So how many would you say since LB538 came into play? How many new machines are in the state of Nebraska?

**JOHN FOX:** I could get you that information exactly. I would guess--

**ALBRECHT:** I mean, I'm looking at this map here and it has-- like, 49 more cities have these machines now. Are they your machines or are they those gray machines?

**JOHN FOX:** There are-- there will be a combination of which there are four-- far more games that have been added that aren't ours than what BankShot been-- BankShots have been added.

**ALBRECHT:** And so your folks who purchase those machines from you, they pay the \$500 fee and then they pay \$250 to get this sticker on them, correct?

**JOHN FOX:** Correct.

**ALBRECHT:** OK, so that's, that's being tracked and we know that, but, but your machines will not be in the racetracks?

**JOHN FOX:** Our machines will not be in the racetrack.

**ALBRECHT:** OK, so they'll have their own and those will be--

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**JOHN FOX:** Those will be games of chance.

**ALBRECHT:** --games of chance, not skill.

**JOHN FOX:** Correct.

**ALBRECHT:** OK, so when you say, when you say that people will leave the state, what does that mean? You'll leave the state if this doesn't--

**JOHN FOX:** Some companies didn't submit in, in Revenue's process and when--

**ALBRECHT:** So those would be the gray machine people that said we're not staying--

**JOHN FOX:** Yeah, they didn't submit, so they can't be here. Some of those machines were removed.

**ALBRECHT:** OK, OK, so some have been removed because of the bill.

**JOHN FOX:** Some have been removed.

**ALBRECHT:** That's good to know.

**JOHN FOX:** And I, I don't know, I don't know how-- if it's by Revenue enforcement or just by, by removing it--

**ALBRECHT:** Um-hum.

**JOHN FOX:** --but some of that is, some of that is in play.

**ALBRECHT:** So, so this bill is basically saying that, that the gray machines-- not the gray machines, but your machines and games of skill will be taxed at 20 percent.

**JOHN FOX:** Yes.

**ALBRECHT:** So did you feel like that was coming?

**JOHN FOX:** I think it-- I think, I think it's coming because-- and if you will, the fiscal statement from a year ago would contain-- I use the word the thinly veiled games. Skill games make a lot less money. Skill games-- in skill games, we don't have the ability to change the, the percentage or low-- or decrease the percentage. And frankly, I

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think there's a-- forgive the comparison, but coin machine operators all over the state operate BankShot. We made it available to all existing companies. I believe there are 38--

**ALBRECHT:** Um-hum.

**JOHN FOX:** --coin machine companies in BankShot. These are, are people in-- in many cases have second jobs and they farm and, and we had two that were going to come today as, as witnesses that had to stay home to take care of cattle because of the, of the cold. These people are, are hardworking and drive from location to location, put 1,000 miles a month on-- sometimes 1,000 miles a week on, on their vehicles and some perception-- they're not, they're not casino bosses flying in their, their jet and, and have a limo driver. They, they, they got on work boots and-- work boots and belts.

**ALBRECHT:** Um-hum, so, so how do they keep track? I mean, surely they have to report to the Revenue Committee of the state or the Revenue Department how much they make, right?

**JOHN FOX:** At the, at the current time, there's no process for--

**ALBRECHT:** So, so they don't have to. It's just--

**JOHN FOX:** That, that process is not in, in, in play. I, I, I will say on that basis that going back to the very origins of the Mechanical Amusement Device Act, which these games fall under, the sticker was used to-- and simply as evidence the tax is paid and, and taxing on, on, on net receipts brings a whole other level of compliance and--

**ALBRECHT:** Um-hum.

**JOHN FOX:** --and as Walt Radcliffe assured, if you bring the games to the state that you got kicked out of another state with, you're probably not, you're probably not going to be compliant without force--

**ALBRECHT:** Um-hum.

**JOHN FOX:** --and that raises a whole nother issue and adds something else to Revenue while they're trying to finish this first process.

**ALBRECHT:** Um-hum.



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**JOHN FOX:** I hope I answered your question.

**ALBRECHT:** No, you're good. We're good. All right, thank you.

**LINEHAN:** Thank you, Senator Albrecht. Are there other questions from the committee?

**JOHN FOX:** Thank you very much.

**LINEHAN:** Thank you very much. Other opponents?

**BLAIR MACDONALD:** Good morning.

**LINEHAN:** Good morning.

**BLAIR MACDONALD:** Chairwoman Linehan and members of the Revenue Committee, my name is Blair MacDonald, B-l-a-i-r M-a-c-D-o-n-a-l-d, and I am a registered lobbyist representing All American Games, LLC, in opposition to LB367. All American Games, LLC, is a, a Nebraska small business based in North Bend. Matt Kroeger is a distributor of mechanical amusement devices, also known as electronic video games of skill. All American Games currently has approximately 102 machines--

**LINEHAN:** I don't think we're going to hear you.

**BLAIR MACDONALD:** All right. Sorry, I was trying to do it without-- 102 machines placed in locations around the state. All American Games is opposed to LB367 as it seeks to impose a 20 percent tax on the net receipts of cash devices. That level of taxation would result in a large tax increase on an industry that is already undergoing the implementation of new regulations. Ever since Matt- Mr. Kroeger's father founded the company in 2014, they have complied with all state laws and paid all the required taxes to operate their machines. Following the passage of LB538 in 2019, the Department of Revenue worked to develop new rules and regulations of cash devices. Through this process and that bill, the department did-- the department raised the fee for mechanical amusement devices, or MAD decals, from \$35 to \$250, an over 700 percent increase in one year. The department has also developed a new application process for approving licensees to operate machines in the state. All American Games has complied with all of the new regulations implemented by the department since the finalizing of the new regulations in November of 2020 when those were published. In fact, the 2021 application process is still ongoing. The

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machines are still being lab tested, as you've already heard from previous testifiers, so 2021 decals have not yet been issued by the department. I understand that the fiscal note is assuming that there are approximately 300- 3,700 decals issued and 3,200 devices active in the state with a 3 percent annual growth rate of decals and devices licensed in the future. The deadline to submit 2021 applications was just on February 2, 2021, just two weeks ago, and the application numbers do not reflect a positive growth rate this year. According to an email my client recently received from the Department of Revenue's charitable gaming division, 15 distributors who have held licenses to operate in Nebraska in 2020 did not renew for 2021 per Mr. Fox's statement that people or distributors are leaving the state. Based on anecdotal evidence, that means that it is possible that more than half of the machines that were operational in 2020 are now ineligible and need to cease operations immediately. We ask that the committee-- that before requiring a new tax collection infrastructure, that this committee allow the Department of Revenue more time to continue to implement the new regulations to ensure that ineligible machines are not continuing to illegally operate across the state. Of course, if there were any representatives from the Department of Revenue here, I defer to them on the progress of their implementation and enforcement of the new regulations. Any form of additional taxation of mechanical amusement devices must take comprehensive consideration of all the taxes and fees on the operation of the cash devices. Distributors already pay personal property taxes on each of their machines within each county in which they operate. In addition to new application and licensure fees created by the department, operators and distributors like All American Games pay state individual or corporate income taxes on the net profits generated from the operation of the devices. All American Games' location partners across the state are also small independent business owners consisting of convenience stores, restaurants, bars, bowling alleys, and fraternal organizations like the VFWs. The manufacturers, machine owners, and distributors and locations all receive disbursements from the operation of the machines. In pre-pandemic times, those small business-- independent businesses, especially in rural locations within the state, relied on the revenue from the machines to supplement their income and bring in additional business. Many of the small-business owners and fraternal organizations rely on the machines as a consistent revenue stream to pay their monthly bills to keep their facilities running. This bill would have a considerable and negative impact on All American Games'

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location partners as well. As you've heard, the industry is already facing increased fees through the implementation of LB538 and the department's new regulations. This bill, which proposes to impose a new tax increase on electronic amusement devices, does not take into consideration all the regulatory changes the industry is currently undergoing in Nebraska. And for these reasons, we are opposed and I can try to answer any questions you may have. Thank you.

**LINEHAN:** Are there questions? Yes, Senator Albrecht.

**ALBRECHT:** Thank you, Chairman Linehan. Thanks for being here and your explanation. So again, did you say that your client has games of skill?

**BLAIR MACDONALD:** Yes, these are all games of skill that we're talking about.

**ALBRECHT:** So I was under the understanding it's only the BankShot that is a game of skill in the state of Nebraska.

**BLAIR MACDONALD:** No, the-- and LB538 provides further guidance as to what a game of skill is. It really refined that definition, but many-- there are other, you know, manufacturers and games that qualify as games of skill, according to the Department of Revenue and our statutes.

**ALBRECHT:** And do you have any idea how much one of those machines can generate in income?

**BLAIR MACDONALD:** It really varies. It varies totally on the location itself, the location's hours--

**ALBRECHT:** So, so--

**BLAIR MACDONALD:** --popularity--

**ALBRECHT:** --give me a, a high or low.

**BLAIR MACDONALD:** It could be over \$1,000 in a day, certainly. I'm not, you know, an industry expert. I'm just--

**ALBRECHT:** But I just wondered if you had an idea--

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**BLAIR MACDONALD:** Sure.

**ALBRECHT:** --of the kind of money it generates. Thank you.

**LINEHAN:** Thank you, Senator Albrecht. Are there other questions from-- other questions from the committee? You said your-- is a game of skill, but who decided that? Has somebody decided yours is a game of skill?

**BLAIR MACDONALD:** I think the law itself outlines-- LB538 outlines--

**LINEHAN:** There's not been a challenge. You have not been challenged--

**BLAIR MACDONALD:** No.

**LINEHAN:** --like, the court has not decided you qualify.

**BLAIR MACDONALD:** No, no, and some of the features, I think, that one of the previous testifiers was describing as what these games look like, especially now that LB538 is in place, that's not the case. They're not spinning wheels of the slot machines. They're, they're puzzle games.

**LINEHAN:** What's the name of your game, the game of your company?

**BLAIR MACDONALD:** He has multiple games, I don't know off the top of my head what the names are, but All American Games, again, is one of four distributors that are, are-- did reapply in 2021 under the Department of Revenue.

**LINEHAN:** OK, thank you. Other questions? Seeing none, thank you very much. Next opponent.

**ANDREW MEIER:** How are you guys doing today? My name is Andrew Meier, A-n-d-r-e-w M-e-i-e-r, and I am a co-owner of Mid-Nebraska Coin-Op. We cover central Nebraska bars, restaurants. We've been in business for about-- over 15 years now. These are small businesses in small towns, bars and restaurants. And I just want to say what Mr. Fox and Radcliffe said is 100 percent-- agree with them totally on that part. I guess after listening to all this, one of these-- like, there's not hundreds of million dollars here guys. These are games of skill. They're not, they're not gambling machines. We're already being taxed on these games with the tax stamps, the \$250 tax stamps, and the \$500,

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all our fees. And as far as \$1,000 a day a machine, I own and operate a pretty big area that's maybe \$1,000 every two weeks; some, some give nothing. I couldn't give you an average of what they do, but I think you guys are thinking these things are crazy revenue numbers, so-- anyway-- I don't know what I was going to say to you-- and not only that, I'd say these customers of ours, bars and restaurants, have just been destroyed with COVID. I was a former bar owner and I currently own three restaurants myself right now and so I know, I know what's going on. Our games provide a little revenue to help pay, pay bills for our customers and us. So we have locations that were probably shut down due to this bill and possibly that was-- if that bill passes, there is really not enough for us to operate the expense, everything else. There's not enough money there to even make it-- sometimes worth our time of, of even dealing so-- anyway, last thing. I just kind of, you know, want to ask you guys something, you know? Like, I've been around the business. I've done it my whole life. I mean, how much more strain do you guys want to put on the bar and restaurant industry? There might not be many left at the pace we're going right now. And if you've got any questions for me, I'm-- like I said, I'm an operator. I'm out day to day working on the machines, doing whatever, so--

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

**FRIESEN:** Thank you, Chairwoman Linehan. So do you own the machines or lease the machines from someone?

**ANDREW MEIER:** I lease-- we lease our BankShot machines from John Fox.

**FRIESEN:** OK and then you just go around and service them--

**ANDREW MEIER:** Yes, sir.

**FRIESEN:** --make sure they're running and--

**ANDREW MEIER:** Yes, yes.

**FRIESEN:** OK, and you have a-- you cover the whole state or--

**ANDREW MEIER:** We cover pretty much-- we're based out of Grand Island, so we have stuff, you know, south to almost Kansas border, north-- Ericson, O'Neill area, then we've got stuff west. So I mean, we, we do

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pool tables, jukeboxes, ATM machines. We've got stuff as far as Ogallala. We cover a pretty good sized territory.

**FRIESEN:** How many employees do you have?

**ANDREW MEIER:** We have four full-time employees, plus myself and my other business partner.

**FRIESEN:** OK, thank you.

**ANDREW MEIER:** Yep.

**LINEHAN:** Thank you, Senator Friesen. Are there other questions from the committee? Senator Albrecht.

**ALBRECHT:** Thank you, Chairman Linehan, and thanks for being here--

**ALBRECHT:** Yep.

**ANDREW MEIER:** --with your testimony.

**ALBRECHT:** So before COVID, you know, because I know that's hurt a lot of people in a lot of ways, but before COVID, what, what kind of cash prizes, like, a low end, a high end, that would come out of these machines?

**ANDREW MEIER:** Well, the high end on the BankShot, there is a prize pool. There is a jackpot that can pay up to \$15,000. There's not a ton of them, but those are--

**ALBRECHT:** Have you ever paid those out? Have you ever had to pay?

**ANDREW MEIER:** Oh, yeah--

**ALBRECHT:** Yeah?

**ANDREW MEIER:** --we've paid a few out, but they are 1099s, so people do have to pay--

**ALBRECHT:** So people do pay?

**ANDREW MEIER:** Yes, yes.

**ALBRECHT:** What percentage, do you know?

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**ANDREW MEIER:** They're just 1099 to, to the person, so--

**ALBRECHT:** Is it over a certain amount, \$2,000 or--

**ANDREW MEIER:** Yes.

**ALBRECHT:** Is it over \$2,000?

**ANDREW MEIER:** I think it's over \$2,000. Actually, there's been some less than that too. It just depends on the-- they call it a jackpot or whatever.

**ALBRECHT:** So they are, they are paying, but we don't know what percentage.

**ANDREW MEIER:** Yes, they're--

**ALBRECHT:** They are already paying on that.

**ANDREW MEIER:** John, are those 1099s we-- on--

**JOHN FOX:** 1099s--

**ANDREW MEIER:** Yep.

**JOHN FOX:** --any, any win over \$600.

**ANDREW MEIER:** Yeah.

**ALBRECHT:** Thank you. OK, appreciate it. Sorry about that.

**ANDREW MEIER:** No, that's all right.

**LINEHAN:** OK, let's see- that's fine. Good question. Thank you, Senator Albrecht. Other questions from the committee? Thank you very much for being here, sir.

**ANDREW MEIER:** Yep, thanks, guys.

**LINEHAN:** Are there other opponents?

**RYAN BOESEN:** My name is Ryan Boesen, R-y-a-n B-o-e-s-e-n. Ladies and gentlemen, thank you for your time and letting us speak about this bill here. One thing to reiterate really quick, just to clarify,

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anything over \$600, we issue a 1099 for. So I want to speak about the 20 percent proposed taxation in LB367. To reiterate what some previous speakers have mentioned here, the difference between a 20 percent tax at a casino-- and I believe that the example was Arkansas or Oklahoma-- and some VFW or bar in Ainsworth, Nebraska is profound. A 20 percent tax would-- could mean the difference between being able to keep the doors open or not for many of these places. As a game of skill, people do get skilled at these games. The-- there's not enough meat on the bone there. I know that there's an idea-- and I get it. Hey, we want to-- everyone wants property tax relief of, of some form, but in the four years since we started to operate these cash devices, I've seen the taxes go from \$25 per machine per year to \$35 and now to \$250 per machine per year. That's just in a span of four years. That's a tough-- that's a real tough pill to swallow. Like I said, you have to think of these VFWs and bowling alleys in Carroll, Nebraska. You know, these aren't high-dollar, large revenue generating establishments. A 20 percent increase in tax would be-- would make it impossible. I mean, the margin, margin between keeping the doors open and not, for a lot of these places, we're talking the hundreds of dollars per month, not thousands and tens of thousands. And the-- your line of questioning and kind of where you're going, Senator Albrecht, is-- you are spot on with kind of the frustration and things moving slow and so I get it. So anyway, I'm opposed to the 20 percent taxation. Any, any questions?

**LINEHAN:** Thank you very much. Are there any questions from the-- yes, Senator Albrecht.

**ALBRECHT:** Thank you, Chairman Linehan, and thanks for indulging me here for a little bit about this. You know, when the racetrack-- you know, when they-- that was passed--

**RYAN BOESEN:** Yeah.

**ALBRECHT:** --the whole pitch was hey, we're going to give you some property tax relief--

**RYAN BOESEN:** Yeah.

**ALBRECHT:** --you know, and it's just going to be great and, and wonderful. But like you say, I mean, COVID could hit, they could open



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the doors, and, and not that many people are going to be lined up, right?

**RYAN BOESEN:** Yeah.

**ALBRECHT:** But if-- before COVID hit and we had this LB538, I mean, the whole thing was-- the only reason I even swallowed the pill and said yes to even talking about this, because we were talking about games of skill, games of chance.

**RYAN BOESEN:** Yes.

**ALBRECHT:** If you're game of skill is on the up and up because you've paid your \$500, you've paid your \$250-- and those bar owners and those operators are not going to jump into this if they don't think there's anything, any money to be made and you have to be--

**RYAN BOESEN:** Exactly.

**ALBRECHT:** --diversified in lots of different things when you have a business to make money and to be able to keep the doors open.

**RYAN BOESEN:** Um-hum.

**ALBRECHT:** And while I appreciate all of that, I just-- you know, the, the gray machine is, is a real gray area--

**RYAN BOESEN:** Yeah--

**ALBRECHT:** --because a lot of people aren't-- you, you guys got to go to court and prove yourself, right?

**RYAN BOESEN:** Yes.

**ALBRECHT:** And the game of skill became the, the, the, the game that everybody should be playing.

**RYAN BOESEN:** Yes.

**ALBRECHT:** But there's so many others that are out there as well--

**RYAN BOESEN:** A whole bunch, yeah.

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**ALBRECHT:** --and I just feel like, you know, if it's not taxed-- I mean, it's one thing that you do actually have a 1099 because I've-- I don't think I heard that back two years ago, but I thought they were just winning and didn't have to pay anything--

**RYAN BOESEN:** Um-hum.

**ALBRECHT:** --so thanks for that clarification. So I still believe that if you're going to be making a profit in your business and you want to help Nebraska stay alive and well, I think people need to be paying their share.

**RYAN BOESEN:** Yeah.

**ALBRECHT:** And I don't know how we would ever keep track of the cash that goes in and the cash that comes out.

**RYAN BOESEN:** Exactly and that's why the tax stamp system-- that, that works because you can actually enforce that.

**ALBRECHT:** So if we raise a tax stamp a little bit, would you be OK with that?

**RYAN BOESEN:** Well, like I said earlier, we went from \$25 per stamp--

**ALBRECHT:** --to \$250.

**RYAN BOESEN:** --to \$35 to now \$250. And hey, we're all, we're all from Nebraska. We want to support the state. We're fine with the \$250 per machine per year--

**ALBRECHT:** Um-hum, but let--

**RYAN BOESEN:** --and we all know the difficulties--

**ALBRECHT:** But let me ask you a question, though. I mean, I've heard that these machines can generate some major money and maybe it's just where they're placed, OK? I understand central Nebraska, maybe not, but hey, there's people that have lost their farm over, over gambling too, so I'm just saying I'd like to kind of explore with you what, what kind of money can a game-- just one machine generate if it's--

**RYAN BOESEN:** Well, we, we primarily operate BankShots--

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**ALBRECHT:** Um-hum.

**RYAN BOESEN:** --which, like I said, since they are a game of skill, people do get skilled at those games and once somebody kind of figures out some of those puzzles, the, the margin is not near what a lot of these other gray machines are.

**ALBRECHT:** Um-hum.

**RYAN BOESEN:** I can't speak to, like, some of the other-- kind of these gray market or illegal machines. I mean, I'm sure that they can at the right location. At a, at a 24-hour truck stop or a, or a, a horse-racing track, they probably could generate thousands per day--

**ALBRECHT:** Um-hum.

**RYAN BOESEN:** --but that's typically not our experience with BankShots. And like I said, our locations are not--

**ALBRECHT:** Right.

**RYAN BOESEN:** --you know, we're in VFWs and small-town bowling alleys and, and such. But since they are all kind of cash devices, other than the \$250 tax stamp, boy, it's real hard to-- you're going to have to have somebody that's honest when it's in all cash.

**ALBRECHT:** Um-hum. So, so when these people lease these machines from you all, so you get half, they get half kind of thing?

**RYAN BOESEN:** Correct.

**ALBRECHT:** So, I mean, you know what your income is when it comes in, right?

**RYAN BOESEN:** Oh, yeah.

**ALBRECHT:** So there would be somebody on one side and somebody on the other, so we should be able to know the kind of money that goes in there, right?

**RYAN BOESEN:** Yeah.

**ALBRECHT:** OK.

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**RYAN BOESEN:** Like I said, if you're operating on the up and up, you report all of your income since it's all cash.

**ALBRECHT:** Yes, yes.

**RYAN BOESEN:** Yeah.

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

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

**RYAN BOESEN:** Thank you for your time.

**LINEHAN:** Um-hum. Are there other opponents?

**TODD CARPENTER:** My name is Todd Carpenter, T-o-d-d C-a-r-p-e-n-t-e-r. I'm in central Nebraska, right in the middle, Grand Island. I guess when I sit back-- I really wasn't even going to talk today-- was I think Revenue, you know, they, they had a lot to take on here. They-- first, you know, with the, with the LB that came through, the first bill, and they needed to come up with rules and regulations. That was the very first thing that they did. Nobody knew what they were, but they implemented them and now they're in the process of executing them, so we're, we're kind of in a limbo mode right now on-- everybody sent off their machines, which ones that they would deem were going to comply. So what has happened was everybody sent in to, to a research facility and they are getting tested and we're in the process of doing that right now. So once the testing company comes back, they're going to say, cut and dry, black and white, this machine fits the criteria, this one doesn't, this one will work-- pretty much just going to be black and white. They're going to say these are legal, these are not. It's what they're going to come out and it's just taking a little time. And then once that is implemented, then that game-- then they can go after. Now all these games are online, the somewhat-- what you would call the legal ones, the BankShot machines, so you can see what the revenue is. You know, I, I think Senator Albrecht's, like, well, how do we know what they're doing? How do we know which, which-- it's, it's-- if you're going to tax, there, there it is. There's, there's your information. BankShot machines are online. You can, you can get the, the records from, from the company. All right, this machine did X amount this month, so we can tax it that way. We don't even know--

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none of these games are legal right now. It's really hard to tax. So, so to tax the machine, you're saying that, all right, they are legal. Well, we don't know. There-- yes, there are-- there is an issue and-- with, with companies that have come in from out of state and just flooded the market and it, and it needed addressed and, and Revenue is going to take care of that problem. It's just taking a little bit longer, was to weed out the people that came in here, flooded the market, and stuck them everywhere. And, and their machines are-- we don't even know what they are, OK? They're not fit and-- they're, like-- where are these even coming from? I'm frustrated. You know, we're trying to run a, a, a business and you're, like-- we, we're getting beat up out there to be honest with-- and we almost need protection and this is what Revenue is doing. You just have to let it take its time. Now 20 percent is pretty aggressive. I don't care what you talk about, what industry, 20 percent is huge. I'm-- if you're going to let us-- you know, brought up that yeah, you know, we all-- we got to model it off a casino, all right, because we're going to implement a 20 percent tax on them. Well, sure, OK. Well, let us run slot machines and we'll, and we'll, and we'll take the 20 percent, but these are games of skill. There's not 20 percent-- much left, sometimes nothing. Sometimes these machines do go in the hole. That's the other thing. There's not always a plus. You go in there, you go in to collect, you have the-- the machine is in the hole \$700. Well, OK, we'll wait. We'll wait another week. We'll wait and see what's going to happen. And then-- you know, it is a game of skill, so it does-- it's not all profit. It's not every time-- you're not guaranteed that, like a slot machine, that if \$1 goes in that, we're going to make 40 percent or 40 cents on that \$1. There's no, there's no way to set that. So the 20 percent, it, it, it needs to be tabled right now. We need to sit back, let the Department of Revenue do their job, come out and say hey, we found out this game's legal, this one's not, this one's not. Everybody else, pick their stuff up. This is the only game that's legal or maybe this game is legal, maybe two games, and then they're both-- everything's online and if they want to come out later and go look, all right, we're a little aggressive on the 20 percent, can we, can we, can we negotiate the 7 percent on sales tax? We'll call it-- you know, and-- or let's not even mess around with the sales tax. Let's raise the tax stamp sticker. I mean, just to make things simpler with enforcement and with-- I mean, there's a lot of different angles to go, but I would, I would not be opposed to just going all right, let's not mess with sales tax and, and, and the burden of

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trying to collect, like, four-- let's just-- every machine takes a, a, a stamp and we're going to charge X amount and we know that this game is legal. Everybody else, pick their stuff up. We've got everybody else who's not from Nebraska out of Nebraska and we can go-- and we can move forward. We're just-- I'm going to-- I'll take questions, though, if anybody has any.

**LINEHAN:** OK. Well, let's see if we have any. Are there questions from the committee? Senator Pahls.

**PAHLS:** Thank you, Chairperson. OK, I'm reading there are over 3,000 devices in over 263 towns and villages. In your area, how many do you-- would you say right now are illegal? Just a-- I mean, I know this is a guess.

**TODD CARPENTER:** You, you know what? I bet you probably over half. I'll, I'll, I'll say that. I bet you half are. I get-- you know, I'm on the-- I, I go into places all the time and I look and I look for tax stickers on machines that aren't even mine. I want to know if they're-- at least, at least got-- and I've called, I've called the Department of Revenue, the, the enforcers, hey, I was just over at this place. They didn't have the tax stamp sticker on them. Go in there and see what's going on.

**PAHLS:** And there's no follow-up from anybody who's supposed to be checking up on this as--

**TODD CARPENTER:** Well, I mean, you-- so, so if you-- in the games, whether or not it's a jukebox or a pool table, they all take a sticker, not the \$250 sticker, but they take a \$35 sticker. Now on January-- every-- on the 1st of the year, we get stickers for all, all the new machines. So we put them out there and I can tell you that on January 5, I got fined for \$35 for not having a \$35 sticker on a machine, on a jukebox. They enforce what's going on. It's just sometimes that if they're not into places that they're-- I mean, they're-- they will throw them into-- what are those-- they're throwing them in the laundromats. They're throwing them anywhere, OK? So a lot of places-- which our enforcement don't go into laundromats or, you know, places to see whether or not they're complying or, or not or if they're even licensed as a, as an operator or as a, as a distributor. So Revenue is doing their job, they're just-- it's just taking some time. And now since-- what's going on is Revenue, once

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they get everything online, they can-- once the rules and regulations get figured out, we've all-- everybody's been submitted. February 1 was the last day to submit any games that you wanted to have tested. And if they've got-- and if they come back from testing and they come back to the Department of Revenue and they say this machine doesn't comply, this one, this one, this one-- all of them couldn't comply, if you ask me. They can come back and say none of these fit, pick them all up. It's done. There's no-- then there-- I mean, we really don't even know-- you're-- you want a 20 percent tax on something that we don't even know is even going to be here next year.

**LINEHAN:** Thank you. Are there other questions from the committee? Let's go back to your-- so you don't-- the customer does not pay sales tax on it?

**TODD CARPENTER:** On-- what we do is-- a revenue tax stamp, what we tell the location is that since it's \$250 and we share the revenue that they split-- they pay half the tax on the, on the, the sticker. So we'll make the location pay \$125 and we'll pay \$125. Now, now that is income, OK? So when they deposit that, as I said, they're claiming income, so they're, they're, they're--

**LINEHAN:** They pay regular income tax.

**TODD CARPENTER:** Plus-- and, and-- yeah, absolutely.

**LINEHAN:** Right and on the 1099s, they would have to pay Social Security tax and income taxes and all that? OK.

**TODD CARPENTER:** Correct.

**LINEHAN:** All right, are there other questions from the committee?

**TODD CARPENTER:** Senator Albrecht, anything?

**ALBRECHT:** I'm good.

**TODD CARPENTER:** All right.

**LINEHAN:** Thank you very much.

**TODD CARPENTER:** You bet. Thank you, guys.

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**LINEHAN:** Are there other opponents? Is there anyone wanting to testify in a neutral position? We have letters submitted rest-- excuse me-- submitted written testimony from Russell Westerhold, Winners Marketing, as an opponent and we had-- letters for the record, we had one proponent and one opponent.

**BRIESE:** Thank you, Senator Linehan and members of the committee. I certainly appreciate all the-- everybody coming in today and testifying on this bill. It's, it's been very informative and thanks again to everyone. A couple of comments I had. I did find out that Wyoming is 20 percent on what they deem skill devices. Don't know how they define skill devices, but that's, that's my information so far. But I've heard it submitted that, you know, this is going to be an extremely large tax increase and it could destroy small businesses. And I think I can speak for everyone here, we're not out to harm small businesses and especially destroy small businesses. But we, we do have to sift through that somewhat. And Senator Albrecht, I appreciate your questions, trying to get to the bottom of the economics. You know, what are the numbers? How does this work? And basically, all I have to go off of is the fiscal note and the fiscal note suggests that roughly 15 percent of what is put into these machines comes back with profit. And we're talking about shaving off 20 percent of that 15 percent, which is 3, 3 percent of what is put into a machine and I don't think I've heard anybody here tell me that they cannot adjust these machines to simply reduce payback by 3 percent to make that up and, and they're kept whole. Anyway-- and the, the enforcement issues on LB538 and skill versus illegal machines, that's very unfortunate and the AP-- you know, that-- the problem with the APA, it's a slow, cumbersome process and that really could cause things to drag on. But it was brought up early on that, you know, the enforcement issue with the illegal slot is maybe the issue, but that, but that's not the issue today. You know, today the issue is whether we should tax the revenue from these supposed skilled machines that Mr. Geier would suggest have many or all the attributes of video slots. We're going to, we're going to tax the racetrack casino slot to 20 percent. Should we be doing the same thing here? And I would submit that it's only reasonable to do so, but thank you.

**LINEHAN:** Thank you, Senator Briese. Any other questions from the committee? OK, I'm-- I thought the 20 percent on gambling was on all revenue. It's just on the profit?



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**BRIESE:** Yes, this would be on the net. I think last year, we had a bill that probably brought it in on gross and that was, you know, that was, we felt, way, way too burdensome, yes.

**LINEHAN:** So this is on profit?

**BRIESE:** Yes, yes.

**LINEHAN:** OK. Other questions? OK, thank you very much for being here.

**BRIESE:** Thank you.

**LINEHAN:** And that brings our hearing on LB367 to close and the next one is LB524, so we'll start the hearing on LB524, Senator Brandt. Good morning, Senator Brandt.

**BRANDT:** Well, good morning. I'm a little confused. Am I in the General Affairs Committee or Revenue? Senator Briese gets that.

**LINEHAN:** I'm glad I'm Revenue and not General Affairs.

**BRANDT:** Yeah, yeah, I bet. Good morning, Chairwoman Linehan and members of the Revenue Committee. I am Senator Tom Brandt, T-o-m B-r-a-n-d-t. I represent Legislative District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties. Today, I'm introducing LB524. LB524 is a bill to change provisions relating to the calculation of Nebraska refundable income tax credits under the Nebraska Property Tax Incentive Act. It would allow any 2019 school district taxes that were both levied and paid for during calendar year 2019 be deemed to have been paid in calendar year 2020. This is a \$7,332,000 fiscal note because last session, LB1107 did not account for 2019 taxes paid in 2019, not 2020. So this bill is meant as a correction to implement the law correctly. To further explain the fiscal note, LB524 would increase the refundable income tax credit from the Property Tax Incentive Act from \$125 million to \$132.332 million unless the 6 percent overall property tax credit rate is lower. If this rate was adjusted, taxpayers that have already received the credit would need to pay back some income tax to bring the total back down to \$125 million. It is estimated that 5.5 percent of all properties paying property taxes levied for 2019 are affected in a negative way. With that, I'd be happy to answer any questions.

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**LINEHAN:** Thank you, Senator Brandt. Are there questions? Senator Friesen.

**FRIESEN:** Thank you, Chairwoman Linehan. So just in the process of getting a bill like this passed, and even if you get an emergency clause on it, everybody's filed their taxes. Does, does everyone have to file an amended return?

**BRANDT:** That's a problem. I mean, I had a constituent bring this for me and we-- it's an, it's an unanticipated consequence of LB1107 and I think we all recognize that. When I get my tax statement on my property-- it's usually about December 1-- on that tax statement, it says taxes are due December 31, but they're delinquent May 1 and September 1. A number of people in the state will-- you're going to have it. I think most people pay December 31 or they do the delinquency. So the people that did the right thing and paid their 2019 taxes in 2019, according to that statement, will not get a share of the refundable income tax credit under LB1107. Now it appears that this is a \$7 million adder, but the reality is, is that when this eventually sunsets at the end of the day, four, five, ten years from now, those people will not be eligible on the last half of that, of that year is sort of how I see it. We did talk-- we did have some correspondence with the Department of Revenue. Unfortunately, they're not here today. They said that the fiscal note stands for itself, so that's all the feedback we've gotten from them.

**FRIESEN:** So, I mean, you have, you have people too that also-- they may pay two years of property taxes in one year. You can pay delinquent in the-- on your previous year.

**BRANDT:** Yep.

**FRIESEN:** And then for tax deduction purposes, I know there's some who pay all when it's due, on December, so they'll get a, a double. But again, looking forward, I mean, if everybody continues-- those same people continue to pay their taxes when due, they're still going to be able to recover 2020 taxes.

**BRANDT:** Yeah, I mean, you can "what if" this thing to death.

**FRIESEN:** It gets complicated.

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**BRANDT:** It, it gets complicated. I mean, if you sold property in that tax year, generally you close that out at the end of the year. And, you know, this-- on most farms, you pay that year's property tax and sell the property. You know, those individuals may not have normally done that, but they were sort of forced into this situation. So we'll see what the testimony brings and answer any questions after that unless there's some more questions here.

**FRIESEN:** Thank you.

**LINEHAN:** Thank you. Are there questions? Yes, Senator Briese.

**BRIESE:** Thank you, Chairman Linehan. Thank you, Senator Brandt, for bringing this, but, but-- so we're, we're dealing with a person who's going to essentially prepay their taxes, taxes they would otherwise have paid in 2020 that were due out in our country on May 1, 2020, and September 1, 2020-- it would have been delinquent then. They prepaid them in 2019, probably for tax reasons, deduction reasons. As they go ahead and prepay again in 2020, the taxes that were-- you otherwise pay in 2021, essentially you get double the typical benefit in one year.

**BRANDT:** That would be correct, except I wouldn't call it prepay because your tax statement says they are due December 31, so actually you're paying on the right time. And my point is-- let's say we come up with a better program five years from now or whatever-- is that last year, you could exempt those people that are prepaying or paying their taxes on time from that last year and it would even out.

**BRIESE:** OK, OK. Thank you.

**LINEHAN:** Thank you, Senator Briese. Are there other questions? Wouldn't it be more likely, Senator Brandt, if everyone knew it was the last year, they would take full advantage of however they can take advantage of it for tax purposes?

**BRANDT:** If, if, if you--

**LINEHAN:** If the program was going away--

**BRANDT:** If, if you would not change anything, absolutely.

**LINEHAN:** Yeah.

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**BRANDT:** Yeah. I would pile on.

**LINEHAN:** Thank you.

**BRANDT:** Yeah.

**LINEHAN:** OK, let's see what the testimony is. Thank you.

**BRANDT:** All right, thank you.

**LINEHAN:** Are there any proponents?

**DAVE WELSCH:** Good morning, senators. My name is Dave Welsch, D-a-v-e W-e-l-s-c-h. I am a farmer and 22-year member of the Milford School Board, currently serving as president. I am here to testify in support of LB524. First of all, thank you to Senator Brandt for introducing this bill and also to Senators Kolterman, Stinner, and Williams for being co-introducers. It is important to note that Senators Kolterman, Stinner, and Williams were key negotiators in crafting LB1107 at the end of last year's session. All four of those-- these senators recognized the need to make an adjustment to the Property Tax Incentive Act, which was a big part of LB1107. LB524 simply clarifies that all 2019 school district property taxes are eligible for the refundable income tax credit, regardless of whether they were paid in 2019 or 2020. I believe it was the intent of the Legislature for the Property Tax Incentive Act to begin with all 2019 school district property taxes. This bill will provide for that intent to happen. On January 11, I learned of the Nebraska Department of Revenue Form PTC 2020 from my tax preparer. Part of the instructions for completing that form are attached or handed out this morning. Over the next two-- few days, I had conversations with two employees at the Department of Revenue policy section, Tom Milburn, revenue tax specialist, and Jenee Saffold, an attorney. In discussions with them, I learned that any school district property taxes paid in tax year 2020 are eligible for the income tax credit. I specifically asked that if someone paid delinquent 2017 or 2018 school district property taxes in 2020, if they would be eligible for the income tax credit, and the answer was yes. I find it difficult to accept that it was the intent of the Legislature to reward those who have been delinquent on their taxes to receive this income tax credit, so I would ask the Revenue Committee to amend LB524 to clearly state that any school district property taxes levied prior to 2019 are not eligible for the income tax credit,

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no matter what year they are paid. I would also ask that you amend the bill so that any property owner who received an income tax credit for school property taxes levied prior to 2019, that they would be required to pay these credits back to the state. In regards to the fiscal note on LB524, I would like to point out that if the above suggested amendments were made, there would be a reduction in the fiscal note since no income tax credit would be allowed for school district property taxes levied prior to 2019. Also, the \$125 million fiscal note for LB1107 is not an appropriation, but is considered an income tax revenue loss. This would be very similar to the fiscal notes for past corporate tax incentive bills. Therefore, the fiscal note is considered more of a guide-- guideline for the Tax Commissioner when calculating the income tax credit for school property taxes. You must have given us five minutes today. I'm not even to my yellow.

**LINEHAN:** I am giving you five minutes today.

**DAVE WELSCH:** I will expand, since I've got another minute, on the fiscal note. One option you might have to eliminate that \$7 million fiscal note is that if you adopt this bill with the amendments, that people would not be able to amend their 2020 tax return, but they would be able to claim there are 2019 taxes paid in 2019 in tax year 2021. That way you could add those numbers with the 2021, \$125 million or whatever it is at that point, change the percentage of what the income tax credit is, and everything would work its way out over a two-year period. So I know how fiscal notes can knock a bill out of contention pretty quick, but that would be one way to handle that so that that would not be the problem. You know, the other point was brought up-- well, it might work out in the end when this program goes away. I think it's much more prudent to identify exactly when the credit starts, 2019 taxes, and if it does end at some point, exactly when it ends on which property taxes are paid, not on which-- on, on when they're levied and not on when they're paid, so-- I see my time's up.

**LINEHAN:** Thank you.

**DAVE WELSCH:** Be happy to take any questions.

**LINEHAN:** Are there any questions from the committee? Senator Bostar.

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**BOSTAR:** Thank you, Chair Linehan. Thank you, sir. You mentioned a few options for how to address some of the fiscal note. Do you have a sense of what sort of impact some of those things would have on it? And also, are there other things that can be done?

**DAVE WELSCH:** An, an impact on if we approve this bill and we have the 2019 taxes eligible that were paid in 2019, it would-- by simply rolling that ahead to tax year 2021 on their state tax filings, it will just-- more taxes paid will be eligible in tax year 2021, so you just divide that out over the \$125 million or whatever that fund has grown to. You adjust-- this year, the percentage is 6 percent of school property taxes paid is what you'll receive in an income tax credit. So if you roll that ahead to 2021, you simply adjust the percentage of what the credit is and then you've dealt with the problem without adding any extra burden to this current fiscal year. And also, by allowing those 2019 taxes to receive the credit, again, when you get to the end point of this possible act, then you say OK, any 2025 school property taxes that were paid, no matter what year they're paid in, they'll receive the credit, but that's it. That's where you draw the line. It's a lot easier to draw the line on property taxes that have been levied than it is on the tax year that they were paid. So you'll have a much clearer program if you define it right now at the beginning by saying it all starts with 2019 school property taxes.

**BOSTAR:** And, and how much-- preventing the-- preventing delinquent payment from receiving the, the, the tax benefits, do-- and perhaps this isn't a question for you, but, but do you have a sense of how significant that particular element of this would be?

**DAVE WELSCH:** I, I really don't. I do know-- you know, being on the school board at Milford, I know we inquired of our Seward County Treasurer at one point and he said there's, there's very few delinquent taxes in, in Seward County, so it's-- they're-- they stay pretty current. As far as across the state, I really don't, don't know how many delinquent ones there are. But certainly, I don't think it was the intent of this body to reward people for paying taxes in arrears in 2020 and being eligible for this credit and it just-- it's not good policy for the state to reward people for being behind on their taxes, so--

**BOSTAR:** Thank you, sir.

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**DAVE WELSCH:** Thank you.

**LINEHAN:** I want to clarify something. When you say delinquent, what are you-- are you saying they're delinquent December 31? Are you talking about delinquent after May 1 and September 1?

**DAVE WELSCH:** I, I think the, the terminology be-- would be after May 1 and September 1. Clearly, somebody could have been delinquent on their 2019 property taxes towards the end of 2020, but still paid them in 2020. And since they were 2019 property taxes, I believe they should be eligible for the credit, the income tax credit--

**LINEHAN:** OK.

**DAVE WELSCH:** --but it's for somebody that's behind on--

**LINEHAN:** Yes, I understand.

**DAVE WELSCH:** --taxes prior to that--

**LINEHAN:** I understand.

**DAVE WELSCH:** --whether they're-- yeah, I mean, obviously, they're delinquent now, but I don't think that was the starting point or the intent of the Legislature to go further back, so--

**LINEHAN:** All right. Are there any other questions from the committee? Seeing none, thank you very much for being here.

**DAVE WELSCH:** Thank you.

**LINEHAN:** Are there other proponents?

**JON CANNON:** Good morning, Chairwoman Linehan, distinguished members of the Revenue Committee. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials, otherwise known as NACO, here to testify today in support of LB524. Thank you, Senator Brandt, for bringing this. This is important legislation that we think-- in order to pick up those taxpayers that otherwise would have been left out. And, you know, kind of taking the mirror image approach from what Mr. Welsch was testifying to, you know, what this is designed to do is designed to benefit those taxpayers who paid early on their 2019 taxes and-- you

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know, because most people across the state, if they have an escrow account or, or otherwise, they're making their payments on their 2019 taxes first half of 2000-- you know, either April or May of 2020, second half, either August or September of 2020. And really what this does is it brings those folks that, that paid early and just brings them into the fold, which I, I, I think is probably a good tax policy. I noticed that there was the question as to, you know, how does this even out because someone could-- they could have made the payment in 2019. They also get credit for the 2020 taxes that they had paid. Over time, that's going to take care of itself. I mean, if, if, if someone is making-- is prepaying taxes and they're in that habit, they, they prepay by December 31 of each year, then there's going to come a year where they've sold the property and they're not, they're not going to get that credit from the property tax credit, you know, and it, and it works the other way as well. So if, if a person is in the habit of, of paying on the first half and second half delinquency dates, if there ever came here where they, they prepaid, they would just-- they would simply catch up. So we, we think that ultimately, it comes out in the wash. We think it's good policy. I'd, I'd urge the committee to advance LB524 and I'd be happy to take any questions you might have.

**LINEHAN:** Any questions from the committee? Senator Friesen.

**FRIESEN:** Thank you, Chairwoman Linehan. So when you go on the website and, and run the calculations, are those-- those numbers that they put out there, are those-- do they know that those taxes were actually paid or are those just the taxes that were assessed?

**JON CANNON:** Are you referring to the Department of Revenue's website?

**FRIESEN:** Yes.

**JON CANNON:** Well, sir, I, I don't know exactly the programming that went into the Department of Revenue side, but the software company that, that services the counties worked pretty closely with the Department of Revenue and what we sent them was a file that indicated here are taxes that have been received. And we had to make that, that breakdown between, you know, school district taxes and, and everything else.

**FRIESEN:** So we are pretty well assured that those taxes have been paid before we're going to issue this tax credit against them?



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**JON CANNON:** Yes, sir.

**FRIESEN:** OK, thank you.

**JON CANNON:** Yes, sir.

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

**BOSTAR:** Thank you, Chair Linehan. Thank you, sir. Is today the first day you're coming before the committee as the executive director of NACO?

**JON CANNON:** No, sir. I, I came last week a couple of times on a few bills.

**BOSTAR:** Oh, sorry I missed it, but congratulations.

**JON CANNON:** Oh, well, thank you very much, Senator.

**BOSTAR:** How much can you prepay for your property taxes?

**JON CANNON:** So as Mr. Welsch was describing earlier, you get your tax statement sometime in December and so it's-- they're due technically by December 31 for the 2019 tax year. You could prepay the whole thing. I mean, it wouldn't be prepaying. You could pay them by the due date. You could pay the entire amount of tax deal. However, what we've done is we've said well, that's an awfully, you know, large bullet to swallow and so what we've decided, as a, as a matter of policy, is that we'll have first half delinquency date and a second half delinquency date. And so therefore, you would-- most people are going to pay their 2019 taxes in arrears during the 2020 calendar year.

**BOSTAR:** Got it. OK, thank you very much.

**JON CANNON:** Yes, sir. Thank you.

**LINEHAN:** Thank you, Senator Bostar. Are there other questions from the committee? Seeing none, thank you for being here.

**JON CANNON:** Yep, thank you.

**LINEHAN:** Are there other proponents? Are there any opponents? Is there anyone wanting to testify in the neutral position? OK, so written

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testimony was submitted by Trenton Buhr, Center for Rural Affairs, is a proponent and there were-- there was one proponent letter for the record.

**BRANDT:** So we'd like to thank all the testifiers today. So we are more than willing to amend this to include an E clause, exclude prepayments on the final year of the act, and exclude any years prior to 2019 taxes. So I brought this because this is a fairness issue. I mean, we both own a house that's worth exactly the same amount of money. You go to the coffee shop. Guess what? I got back the refundable income tax credit. And this guy, I didn't get back credit and he asks his accountant why didn't that happen? Because you paid your taxes on time, because you did what you were supposed to, because the statement said they were due December 31. So really, this, this, this is the, this is the moral issue that I see with this act and I think it's, I think it's easily solved. So with that, I would take any questions.

**LINEHAN:** Any questions from the committee?

**BRANDT:** OK.

**LINEHAN:** Isn't it pretty unusual for people to pay two years' taxes in one year? I mean, you'd only do that for income tax purposes.

**BRANDT:** Yeah, and I, I, I think what-- where the committee maybe is getting confused is where they should have put the start date--

**LINEHAN:** I don't think we're confused.

**BRANDT:** They should have put the start date--

**LINEHAN:** [INAUDIBLE]

**BRANDT:** Yeah, I know, but it's December 31, 2019, to capture or December 1, 2019, instead of January 1, so what will--

**LINEHAN:** But let me ask this. If I paid my taxes that were due on December 31, 2019--

**BRANDT:** Um-hum.

**LINEHAN:** --won't I pay my taxes that are due on December 31, 2020, in 2020?

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**BRANDT:** Yes.

**LINEHAN:** So aren't we, by do-- if we pass this, then the people who would-- paid on the 31st of December, they get double what other people get.

**BRANDT:** They would get double the first year.

**LINEHAN:** They would get double.

**BRANDT:** But if, if you knew what the sunset date was for the elimination of the--

**LINEHAN:** What if it never sunsets?

**BRANDT:** But--

**LINEHAN:** What if it never sunsets?

**BRANDT:** Well, then, then it never sunsets, but--

**LINEHAN:** So the people-- there are groups of people that get double the first year?

**BRANDT:** In a sense, yes, but it takes care of itself at the end because on that last year, that group is excluded.

**LINEHAN:** Right, I get that--

**BRANDT:** Yeah.

**LINEHAN:** --if there is a last year.

**BRANDT:** If there is a last year, yeah.

**LINEHAN:** Other questions from the committee? All right, thank you.

**BRANDT:** You bet.

**LINEHAN:** You're very brave to bring this up. And you gave us plenty of heads up. OK, that closes the hearing on LB524 and we will now open the hearing on LB613. Senator Erdman.

**ERDMAN:** Good morning.

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**LINEHAN:** Good morning.

**ERDMAN:** Good to be here in front of you again. I am Steve Erdman, S-t-e-v-e E-r-d-m-a-n. I represent District 47, ten counties in the Panhandle. As you'll notice, I'm here on time today. Sorry about that the other day. I bring to your attention today a bill that would solve an issue that we have been dealing with for a number of years and that is the ability for one to have an appeal on their valuation of their property heard in a timely manner so they don't have to pay another year's exorbitant taxes that are higher than they did the year before. I'm going to start with this. In, in no way am I indicating that the TERC board is not performing the function that they were intended to do. What I'm here to tell you is that because of the-- I don't know how to say this respectfully-- because of the procedures that the county assessors follow, they have an abundance of appeals that they shouldn't have. That's the best way I can say that. And so I'm not indicating that the TERC board is, is failing in what their duties were or their charges. What I'm here to tell you is that they have 1,500 or 1,600 appeals every year and part of that is because the county assessors do whatever they want to do and take total disregard for the taxpayer. And a lot of people that go and protest their values don't feel like they get a fair hearing in front of the board of equalization and so then they appeal to TERC and then we have 1,500 or 1,600 appeals. And so by the time TERC gets those appeals, it is in September because by the time they do the valuation protest with the county and then file the appeal, by the time they file that, it's September 1. And so the time TERC start to hear these, it's already into September or October. And so consequently, a lot of these decisions aren't made until another year passes and so you pay two years of taxes that are higher than they should be because the valuation is wrong. So what this bill does, it says that if a hearing is not scheduled after you make your appeal, if the hearing is not scheduled within six months and a decision is rendered within nine months, then the taxpayer wins. So the default is to the taxpayer because I don't believe it is appropriate to pay another year's taxes that are higher than they should be. And so that's the intent of the bill. It's very simple, very straightforward. And so when we look at what they've been doing and we see that for years, there have been a buildup of too many appeals, and what happens in a lot of cases-- and I will share one of those examples with you later-- is you appeal to TERC, the TERC agrees that your number-- your value should be what you

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say it should be, and the next year, the assessor raises your value back to what it was before. And when I was county commissioner, that happened several times until we finally had a, a "come to Jesus" meeting with the assessor that this is going to be the price and this is what we're going to do going forward. And so consequently, those are some of the things that happened to us. And, and the taxpayer has to pay the next taxes while they're still waiting for appeal on the year before and so the owner of the property may, may have the proof that their value is higher than it should be, but because TERC takes a long time to decide what the decision is that you pay two years in a row. So that is, that's kind of a synopsis of it. You know, sometimes when you get a fiscal note, you look at it and you think who wrote the note? And then sometimes if you read the fiscal note, they help you a lot. And so if, if you had a chance to see the fiscal note-- and they, they sent information to Douglas County and they asked them how will this bill affect you? And I thought maybe what I should read is just that sentence in the middle of that and say that's my opening. So let me read you what it says-- this is from Douglas County-- "Currently, the majority, if not all, TERC appeals take over a year to be set and several more months to receive a decision." So if I would have just read that, that would have been sufficient to explain to you what I'm trying to do. And so when we make these decisions about appealing your property-- and in my case this year, I had eight properties that I appealed to my local board of equalization and I had sales information to prove that my value was overvalued and I did not receive a favorable decision from the board of equalization. But because we raised the filing fee to \$50 per parcel, I didn't want to spend another \$500 to maybe get a \$2,000 reduction, so I didn't file. So I received an email from-- and I will say, I will say this on the record-- from a friend of mine in Douglas County, Douglas County Commissioner Mike Boyle. He sent me this email after he seen that I introduced LB613 and I want to read just part of that email to you. He's replying back to a, a friend of his and he said I also spoke and see the need for-- to replace the TERC board with the local board of appraisers to review taxpayer appeals. My good Republican friend, in parenthesis, really a former Morrill County commissioner, now a member of the Nebraska Legislature, Steve Erdman has offered a bill in the Legislature, LB613. It changes the provision relating to the hearings and the decisions of appeals under the TERC Act. So he sent along some information that happened in Douglas County and what happened in Douglas County, there was an appeal made to the board of equalization

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on several apartment complexes and it shows that in '19 on the one parcel, it was valued at \$10.4 million and the assessor raised it to \$34 million. Then in '20, the preliminary value was \$44 million and they had an adjustment of-- down to \$38 million. And guess what happened in '21? The assessor put it back to \$43,800,000. So that's exactly what happened. There's three examples and they did it in all three of those. So it appears-- and this is what the gentleman wrote-- it appears that the assessors do whatever they want to do and the referees who have more knowledge about the assessor staff-- about what the assessor staff knows about assessing property and they tell her that she's wrong, but they said we can only surmise that she's doing this to be vindictive. So these assessors are causing the problem for the TERC board and so it's an issue that could be resolved if they just did things with common sense and used common-sense application of how they value property. And so I see in the fiscal note-- and Commissioner Hotz stopped by my office. We had a long visit about how to do this and, and I'm not-- as I said, I'm not opposed to what they do. They do a good job and, and give fair valuations when they're done, but the point is they have too much to do. So if they have to hire three more commissioners, so be it, but we have to come to a conclusion of how we're going to treat these people in a timely fashion. We can't allow this to drag on and drag on. And, and I'll give you an example. In '18, I was representing a gentle-- gentleman in Chappell that owned a nursing home. He bought a nursing home because his daughter and his granddaughter worked there. That's a good reason to buy a nursing home. But anyway, they had him valued at five times what he had paid for the property. And I thought that was exorbitant, so I spoke to him about making an appeal, so he did. He appealed to the TERC. I went with him to the appeal in September of '18 and within a week, he had the results. They had a hearing and he had the results within a week and the county then appealed it to a two-commissioner hearing and they just settled it about a month ago. So from the time that he paid his taxes, which was \$10,000 more than he should have paid, he's been over two years waiting for the appeal to be heard. And so we've got to make some timely decisions about how we move forward with solving these issues about valuation. So whether we have regional boards to decide this or appraisers or if TERC gets twice as much staff as they have now, whatever it is, this issue needs to be solved. And so I bring that to you today, that this is the default, goes back to, to six months and nine months, and it eliminates a whole bunch of work for TERC and it, and it will force

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the assessors to make a decision about what they do, a correct decision. And so the letter that I sent to you or the, the information on that fiscal note from Douglas County, it also went on to say something very important that I think we all need to take into consideration. This is why we have the problem we have. The last sentence on their fiscal note said if we pass this bill, it "will result in less property tax revenue collected by the county." That's the problem. Our focus is wrong. We're focused on those who collect the taxes instead of those who pay the taxes and so this is why we need to make an adjustment here so we can have some fair and equitable valuations done in a quick and expedient manner. Thank you.

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

**ERDMAN:** Thank you.

**LINEHAN:** Are there proponents?

**MATT MALY:** Good morning, Chair Linehan and members of the committee. My name is Matt Maly, M-a-t-t M-a-l-y. I used to own a piece of vacant land in Butler County that I had a trailer parked on, not a mobile home, just a regular trailer. In May of 2019, I received notice from the county that they had reassessed that property as though the trailer were an improvement to the land, even though it was just parked there. Well, that goes against property tax laws, so of course, I appealed it. I appealed June 3, 2019. I had my hearing at the county board of equalization July 8, 2019. With absolutely no explanation given, they ruled on the side of the assessor, so I appealed that decision to the Tax Equalization and Review Commission. I filed that August 2, 2019, expecting it would be quite a wait. So I waited and waited and waited. We finally had the single-commissioner hearing October 16, 2020, and I got the decision from that single-commissioner hearing last week, February 10, 618 days after I initially challenged this valuation. Unfortunately, the single commissioner also ruled in favor of the assessor, omitting from his ruling the statute that I explained the assessor had violated. So now I have to be requesting a full commissioner hearing, which I expect may take another two years. Now obviously, that's frustrating, that long wait, but nobody engages in any government process and expects it to be fast or efficient. Obviously, it's the government. So mere frustration from the wait is not what brings me here today. The real problem here, as Senator

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Erdman articulated, is that it's taken so long that it's gone into the next tax year. So in December of 2020, what do counties do? They send out their tax statements. The valuation Butler County had in December of 2020 was still pending appeal and still wrong and I was irate to find out that decisions of the commission are never retroactive. So if I had wanted to also appeal the same valuation, which was just as wrong in 2020 as it was in 2019, I would have had to make another trip to David City, another trip to Lincoln, start the whole process over again, and of course, the, the deadline to do that by had long passed. You know, I'm no lawyer and that goes against all common sense, so I didn't know that's the way the law was written. But the thing is, even if I had, I probably wouldn't have filed a separate appeal because back at that time, before the deadline to appeal again to the county, I had already been waiting almost a year. So how is the taxpayer-- taxpayer supposed to know in May whether their valuation that's in question will be settled or not come that December? Are they just supposed to guess at how long it's going to take the commission to do their job? So now the situation I'm in is even if the commission ends up ruling in my favor and recognizing that my county assessor broke the law and this-- these taxes were never actually owed, I'll be reimbursed for one year's property taxes that I shouldn't have had to pay when I paid two years' property taxes that I shouldn't have had to pay. Now I'm, I'm a, you know, hardworking, regular citizen. I'm happy to pay my fair share in taxes. I have no problem paying the, the val-- taxes based on the valuation for that land. I have no problem paying the taxes on the house that I now own in Omaha, but there's got to be a line drawn somewhere in between legitimate taxation and downright theft. If we have the state saying the assessor was wrong, this valuation was incorrect, these taxes were illegitimate, they were never actually owed, but we're just going to keep them anyway because we took so long to schedule a hearing and make a decision, then why even have the Tax Equalization and Review Commission to begin with? The reason we have this system in place is because sometimes assessors are wrong, even the good ones, and taxpayers deserve to have a chance to have their voices heard if they have a legitimate complaint about the way their property has been assessed. I know that particular-- a case in, in my appeal is unique, but the same thing could have happened to any kind of taxpayer with any kind of property. It could have been ag land or a business or anything. I don't know if it's that they don't have enough staff or that they don't have enough budget or they need more commissioners or maybe it's all temporary due to COVID



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with people working from home or whatnot-- I don't know-- but if they're taking so long that it's going in the future tax years and the counties are sending out the next year's tax statements based on still-pending appeals when the taxpayer hasn't even had their chance to make their case yet, then those tax statements need to go out with the taxpayer's requested valuation. That's the only fair way to do it. This is a problem that absolutely needs to be addressed. The way this bill addresses it won't actually do anything for me because it's too late, but by sending-- setting a, a reasonable deadline so that it would be impossible for, for valuations to still be pending in the following tax year, that will keep what's happened to me from happening to any other taxpayers in the future. So I urge you to advance this bill to General File. I'd be happy to take any questions and I thank you all for your time.

**LINEHAN:** Thank you very much for being here. Are there questions from the committee? Is this your first time in front of the Legislature?

**MATT MALY:** No.

**LINEHAN:** Oh.

**MATT MALY:** Thank you.

**LINEHAN:** Very good, thank you. Next proponent. Good morning.

**BRENDA BICKFORD:** Good morning. I would first like to thank the Revenue Committee to just giving me a chance to speak. My name is Brenda, B-r-e-n-d-a, Bickford, B-i-c-k-f-o-r-d, and I am a resident of Lincoln. First, I would like to thank Senator Erdman for introducing this bill because this is very important. It takes way too long to get a judgment on a property valuation appeal. I would like to say that I feel it is at the county level that is broken, unfair, and has absolutely no respect for its residents. Due to this, the state or TERC gets overburdened and then it is the property owner that has to pay the price and that should not be the case. I think it is going to take the state to fix this. I currently have two valuation protests that I have elevated to TERC and have yet to receive a notice of hearing on either one. In fact, TERC just keeps getting further and further behind. My 2019 appeal was dated August 22, 2019. My notice of appeal is dated September 27, 2019. My 2020 appeal is dated August 8, 2020, and my notice of appeal is dated January 15, 2021. And I believe

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the only reason that I even got that notice of appeal on January 15, 2021, is because I happened to call TERC a few weeks prior, asking them what is going on. Did I miss something in the mail? What is taking so long in trying to figure out, you know, what my next step would be so I'm not missing anything? Again, I have yet to receive a notice of hearing on either one of these. Now my 2021 property valuations are determined. When I appeal my 2020 valuation, there is no way, at the county level, they are going to rule in my favor because if they do, that's just them admitting that they were incorrect in 2019 and 2020, but yet I still have to jump through the hoops like a trick pony, which will cost me money when I need to take time off work and attend an appeal that I know there is no way I am going to win. This is a disgrace to the residents of Nebraska and this needs to be put to a stop now. That's all I have.

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

**DON CAIN:** Good morning, Senator and Chairman Linehan, the rest of the senators of the Revenue Committee. I'm Don Cain, D-o-n C-a-i-n. I represent the Independent Cattlemen of Nebraska and myself personally. I also want to thank Senator Erdman for bringing this issue to some kind of a resolution because we are in a crisis as far as tax-- property taxpayer justice in the state. The two prior testimonies were from people that I assume are younger than me and I have to say that from my experience, I don't give them much hope and I have aged drastically during this process. We need what the web-- website says about the Tax Equalization Commission. It says it's a constitutional body created to provide a simpler, less expensive avenue of appeal for property owners to challenge the assessment of property in Nebraska. It's not doing what its purpose is and I can't blame all of them and I echo my comments with the local level all the way up. We have problems as property taxpayers, why this is injustice. Number one, TERC is publicly funded and we are not. Number two, TERC is perpetual and we are not. I, I can't count the number of people that have talked to me about their plight and their agony in trying to go through this process as I went through mine. We have time constraints on the property taxpayer. We have time constraints on the judicial process. We need time constraints on the regulatory process, specifically in TERC, to make it fair for all. I'm going to outline to you this timetable and I'll highlight certain ones because it's quite in depth.

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Number three was December of 2012 when I appealed directly to TERC, who affirmed my lack of notice and accepted my appeal. It was not heard until July 31, 2014, number five. That's 19 months before it was heard and a ren-- a decision was rendered. And it was again a split decision of two commissioners, a split decision, 50/50. An inequity of this process is in a 50/50 decision, the taxpayer loses. That is not the way that the, the judicial system works. The person doing the, the petition should have the benefit of the doubt. On that time, they used the incorrect standard of review for my case, so it went to the Supreme Court. And let's, let's compare how the Supreme Court functions compared to TERC. On that July 31 decision, I had 30 days to appeal. I had a hearing at the Supreme Court by March 31, seven months from-- so within seven months of my appeal, I had a hearing with the Nebraska Supreme Court. The Nebraska Supreme Court gave their issue on their first ruling, came one in August of 2015. It was remanded to TERC and asked to revalue it-- their proper standard of review and I didn't get a response from them until number nine, March 17, 2017. That's 18 months and that was after I had talked to my senator and says can you help me? And he made a phone call and asked them what's going on and about three days later, I got a decision. That decision was a review of only two commissioners again. This time, both of them disagreed, so we went ahead after 30 days and, and went to the Supreme Court again. And in six months, I had a, a decision from the Supreme Court in my favor and the Supreme Court actually set the valuation of my property because they could see that TERC was not going to. Moving on down, you can see that TERC has now ordered, in February of 2018, an improper order and we're 35 months past that and having to go through another process because the Supreme Court has indicated to us that a writ of mandamus is the appropriate remedy for this. In the meantime, the years 2013, '14, '15, '16, '17, '18, '19, '20 and soon to be '21 were left unsettled. My property valuations continue to rise and I struggle with hardship. Eight and a half years later, with nothing physically changed on these acres where I raise cows, not a feedlot, mama cows having baby calves, my valuation is 485 percent. I would have personally been better off prior to the creation of TERC and I've been told in a retiring board of educate-- or equalization person that it doesn't matter. They're just going to raise the price, the value back up when it's over with anyway. So I share with you my frustrations and ask you to please advance this bill to the floor so that we can start some property taxpayer justice. Thank you.

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**LINEHAN:** Thank you. Are the questions from the committee? Senator Flood.

**FLOOD:** Thank you, Chair Linehan. You're from Custer County and you testified also on Senator Halloran's Hardship Act, right?

**DON CAIN:** Yes, that's a good recollection. Thank you.

**FLOOD:** Remind me, how much does the county owe you?

**DON CAIN:** Around \$325,000 that I've paid in and they owe me a refund.

**FLOOD:** And they have not?

**DON CAIN:** I've received 75 percent of my first year's refund.

**FLOOD:** That's right. Thank you.

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

**DON CAIN:** Thank you for this time.

**LINEHAN:** Are there other proponents? Are there opponents?

**JON CANNON:** Good morning, Chairwoman Linehan, distinguished members of the Revenue Committee. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials-- I will also refer to it as NACO-- here to testify today in opposition to LB613. First and foremost, I've, I've mentioned before and I'll say it again, I've known Senator Erdman for a long time and I do not doubt his commitment to the taxpayer. I've known him since he was the Morrill County Commissioner and, and his focus has always, always been in the right place and so I, I certainly cannot fault him for that. However, I, I, I do want to address just a couple of things. There are 1,090,000 real property records in the state, according to the Department of Revenue. According to Senator Erdman, if, if his information is accurate, 1,500 to 1,600 appeals are, are filed from county boards of equalization to TERC every year. I'm not very good at math, but I think that calculates to .15 percent. And if that's an indication that assessors in the state are completely out of control, I think that may be overstating things just a little bit. But that all said, I think that what he's talking about, as far as the length of

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time that it takes to get a decision from TERC, is certainly spot on and that's, that's not a criticism of the commission. They're, you know, a bunch of professionals. They do a fine job. They do the best they can with the resources that we give them, but the concern that we have-- and I, and I want to try and-- and I'm going to work through this and I'm going to try and help out Senator Erdman to get where I think he wants to go. Our concern is commutation of tax because when you file your appeal in June and those hearings are held in June and July of the particular tax year, you've got until the end of August to file your appeal with TERC. And we're saying that nine months after you file your appeal, if you haven't-- if you don't have a decision, then you're going to-- your-- the taxpayer is going to win. By that time, the levy has been set. Tax savings have been set out because we're, we're talking about-- nine months after August is May of the following year, so everything has been, has been set out. And what is essentially going to happen is through a process, we're going to commute tax and Article VIII, Section 4 of the constitution, I believe, has a prohibition against commutation of tax. Now I don't think that that's fatal to what Senator Erdman is trying to accomplish here today and, and I think that there are a couple of ways we could go. One, we could handle it like the Homestead. If, if in fact, it's a state agency that is unable to provide the desired result in the requisite amount of time, then the state can pick up the tab if that's what we're trying to do or I, I think that's what Senator Erdman was describing earlier, is that actually a better idea? I think that having regional TERC boards-- you could have one in Scottsbluff, you could have one in North Platte, you could have one in Kearney, Norfolk, Lincoln. Those certainly recommend, recommend themselves as well. I know that the fiscal note would be a little bit higher, but by the same token, you wouldn't have taxpayers that have to drive to Lincoln in order to be heard. You would have "regionable" flexibility. They could all meet together for their annual equalization meeting, you know, in April of each year and I think the process would, would be thereby improved. Now of course, I have all the, the admiration for the commission and what they do. And certainly Commissioner Hotz and the other members of the commission would probably want to be consulted about what that might look like, but I do think that there are other options that can recommend themselves to address the fundamental issue of making sure the taxpayers have a result in a fair and efficient manner. So that's all I have to say. I'd be happy to take any questions you might have.

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**LINEHAN:** Thank you. Are there questions from the-- Senator Pahls.

**PAHLS:** Thank you, Chairperson. I've heard this many years ago when I served down here, the same issue. We just talk about it. I, I agree with the senator. It's time for a change. Something has to happen. I, I mean, I cannot believe that this is still happening. The idea of having several, you're saying several TERC, is that your suggestion?

**JON CANNON:** That, that's certainly one possibility among many.

**PAHLS:** Do you have any other suggestions?

**JON CANNON:** I, I haven't really thought, thought, thought much further than that, Senator, I apologize.

**PAHLS:** Well, I know you haven't, but I, I would hope somebody had thought about this in the past because this is, this is not going to go away. I can feel the frustration of these individuals.

**JON CANNON:** Absolutely and, and frankly, I, I, I think one of the prior testifiers said, you know, the way we had it before was, was better. I'm not suggesting anything is better or worse, but by the same token, the way we had it before we had the Tax Equalization and Review Commission is we had 93 county courts that would hear tax appeals. And so certainly, that's going to be handled on a local level. You know, there is, there is something to be said for that because you have that, that more immediate, you know-- or that, that greater immediacy that's going to occur there. I haven't really thought about that. I, I, I think that TERC certainly serves a purpose. Its primary purpose, I believe, is statewide equalization. I think, if I recall correctly, when they were constituting the commission, they said well, we'll just throw in valuation appeals as well, but-- I'm not entirely certain on that, but that, that's just kind of my hazy recollection of, of how that, that came up. So it, it certainly is possible that we go back to how it was before where we send everything to county court. However, we wanted-- I, I, I believe that the reason we created TERC in the first place is that we said valuation is more science than art and we want to make sure that we're going to have-- the, the right kind of people that have the appropriate experience are going to be hearing those sorts of cases rather than the county court judge. So those are the sorts of things

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that, that as, as a committee, that you senators would have to balance if you were looking to go a different direction.

**PAHLS:** I'm not saying-- I'm just, I'm just curious. Do you think what we have right now is effective?

**JON CANNON:** I agree with Senator Erdman that there are untimely delays that affect the taxpayers and there should be some sort of remedy. Having a remedy where the inability of a state agency to go through 1,600 appeals in a year and that cost is going to be there-- therefore borne by the county, I, I don't think that's the right way of, of remedying that situation. However, I think that to the extent that we can increase their expediency or, or we can, we can increase the expediency for the taxpayer, I, I think those are worthy pursuits.

**PAHLS:** One more question. Of the 1,600 people who say-- are going to TERC, are there any hot spots in the, in the state? You say oh, gee, this particular area-- I mean, I heard Custer County and Custer County, Douglas County-- I mean, are there hot spots? You say oh, yes, this is where the issues are?

**JON CANNON:** I, I think it's going to depend from year to year, Senator. I, I know that at one time in the recent past, there were-- I mean, there were a lot of appeals that were filed from Douglas County, for instance, and, you know, like, several orders of magnitude greater than the, the typical appeal that, that the commission will handle in a particular year. I, I think it just really is going to depend on what the market's doing and how people react to the valuation notices they receive.

**PAHLS:** I'm assuming if they continue to go up, there probably will be some resistance.

**JON CANNON:** If, if-- you know, when the market goes up and, and when people understand that the market's going up because you see a hot housing market, generally speaking, you, you don't actually have as many appeals as you might expect at the county board of equalization level. When all you hear is that the market is flat and/or, or the market is declining and then all of a sudden you get valuation notices that go out, that's when people start to get excited.

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**PAHLS:** And the questions I've asked you, I have not expected the answers that you have because if you did, you probably would try to solve this a long time ago. I just think we should talk about it to try to find that issue.

**JON CANNON:** We're, we're always happy to have the conversation. I-- and I visited with Senator Erdman and, and he said well, you could have come talk to me before I dropped this bill and, and he's absolutely right. I could have. That's, that's really on me, but we're always happy to have the conversation and so, you know, feel free to stop by the NACO office at any time.

**PAHLS:** Thank you.

**JON CANNON:** Yep, thank you, sir.

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

**BOSTAR:** Thank you, Chair Linehan. Thank you, sir. Just, just for, for absolute clarity, NACO, I would imagine, isn't opposed to TERC accomplishing its objectives and doing its duty in a more timely manner.

**JON CANNON:** Not at all.

**BOSTAR:** It's simply the-- if I'm understanding this right, the, the objection is that if TERC still doesn't do their job in a timely manner after, let's say LB613 were to be enacted, that would just be to the, the detriment of ultimately the counties because, because theoretically, there would be some decisions that would have gone in the direction of the assessor, but, but if TERC never really got their act together, so to speak, then, you know, it would go the other way. Is that-- is my understanding--

**JON CANNON:** They'll-- I'll answer that in two different ways, Senator. The first part, yes. I, I think the last time that I ever heard any kind of statistics, a-- the county will win in its valuation appeal 75 to 80 percent of the time. And so if you say that we're automatically going to say that that's the reverse of that, that 100 percent of the time taxpayer is going to win because of a timeliness issue with, with the commission, you know, that's, that, that becomes problematic, of course. But more importantly, though, is the fact that what we would be doing is by virtue of how the timeline lays out, this would be a



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commutation of tax and the constitution says that the Legislature does not have the power to release or remit taxes that are due by, you know, a whole host of, of people. They line up to stay there and, and then they say commutation of tax is just not, not allowed. And so that, that really is the problem, which is why I wanted to suggest alternatives because I, I think that where Senator Erdman wants to go is a, is a worthy destination. I just want to make sure that, that we consider the options to get there in the right way.

**BOSTAR:** Thank you.

**JON CANNON:** Yep, thank you, sir.

**LINEHAN:** Thank you, Senator Bostar. Other questions, other questions from the committee? Senator Albrecht.

**ALBRECHT:** Thank you, Chairman Linehan, and thank you for always being here for NACO and helping us understand where the counties are coming from--

**JON CANNON:** Thank you, ma'am.

**ALBRECHT:** --because you should be the one to know that. OK, so do you know the number of TERC cases, like, over the last five years?

**JON CANNON:** I, I don't ma'am, I'm sorry.

**ALBRECHT:** Can you get that number? I mean, would that be something that you would be able to put your hands on?

**JON CANNON:** Yeah, I can probably--

**ALBRECHT:** And when you have your conventions with your assessors, do they talk about this type of stuff? Do they, do they-- because I know when I was a commissioner, I would call Larry Dix a lot and ask him how to work through certain things. I was board of equalization chair for a number of years in Sarpy County and you have some very delicate situations. And when I hear Dr. Cain's, I, I pause. I mean, if I had that kind of money laying out there, trying to make ends meet, and nobody wants to work with you, there surely has to be something more. My frustration, I guess, with assessors is that, you know, it is their scientific way or no way, but at the same time, they're the ones that are assessing the properties as they wish. But more importantly, the,

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the property taxpayer is the one that has to go fight that number and the delay is just obnoxious. At the same time, all taxpayers are paying the bill when they want to protest, even whatever TERC decides is right, wrong, or indifferent--

**JON CANNON:** Sure.

**ALBRECHT:** --so something's wrong here. We're missing something. And when I look at this bill, I think being on the TERC board has, has got to be the most difficult job in the whole state. I don't care-- you can line up anybody, Revenue Committee, anybody, but I'm just saying that the assessors are led by somebody at the state level to do the right thing. And when situations like certain ones come before us with Mr. Matt Maly as well, Brenda Bickford, I mean, these are real cases that are out there. There should be probably someone else even overseeing not only the assessor, the TERC board, but these, these extenuating circumstances where people are at a loss for dollars. I mean, that, that's just not the way it should be. So again, you know, I know that the counties need the money they need and they'll get it how-- however they will, but I mean, what do you talk about when you're at a convention with these assessors? What are, what are-- what is their hot button with some of these TERC issues?

**JON CANNON:** Well, ma'am, what I can, what I can share with you is that when I visit with assessors, their frustration is the amount of time that it takes to get a decision. You know, they-- you know, the taxpayer is not alone. I mean, the, the assessors are, like, well, we would really like to have a decision. And, and again, there comes that understanding of TERC has a backlog and it's, it's not for me to say that, that they're disposing of their cases any more timely than they should, but it does-- there is a backlog and then that's just, that's just a fact. That's not to take away from any of the hard work that, that those folks do. When, when you visit with assessors, one of the things that they will be very quick to describe is generally speaking, what we have is a system where they're required to use a mass appraisal system in order to determine, you know, how we're going to value property. And so they basically take very basic aspects about your property and everyone else's, you know, whether you've got a three-bedroom house, two-car garage, you know, X number of fixtures, etcetera, they plug that into their, into their models and their models generally spit out what should be, you know, the, the right price for, you know, the standard house or the standard lot or the

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standard parcel of the property and-- however, by virtue of the fact that this is a statistical analysis that they undertake in order to come up with their models to say that their models are coming up with the right number, well, as with any statistics, you're going to have folks that are outliers over-- you know, a little low and outliers that are a little high. You hear from the folks that are outliers that are high and you don't ever hear from the folks that are outliers that are low and, and that's, that's just how it is. They're required to use a system of mass appraisal in order to come up with their values. If, if we did it a different way, if we did what's called a fee appraiser-- fee appraisal, where-- almost like when you get a, you get a mortgage from the bank and you have a guy that comes into your home and he writes down everything about-- everything there is to know about everything about your house. Well, that would be prohibitively expensive and the cost of the administration of county government would skyrocket. And so what we do is we, we do a system where we've got a, a mass appraisal system that, that assessors are, are plugging in the values that they've got. Not every time is it going to, to work out the right way and so what, what we have is a system where the taxpayer feels aggrieved, that they can bring that evidence forward and to the county board of equalization and, and then from the county board of equalization, we go to TERC, then we go to the Supreme Court. And the purpose of this bill, from what I understand, is to address the logjam that occurred at TERC and that's, again, not to take anything away from the hard work that they do, but it is to address the fact that there is, there is that logjam.

**ALBRECHT:** But, but--

**LINEHAN:** OK.

**ALBRECHT:** --to the assess-- sorry.

**LINEHAN:** No, I'm just-- we--

**ALBRECHT:** Yeah, I gathered. OK, I'll ask later. That's fine.

**LINEHAN:** All right, is there any other questions? You said that the-- or Senator Erdman said that 1,400 to 1,500, but how many people take to the board of equalization?

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**JON CANNON:** I don't have a number. I can get that. I can probably get that number for you. I don't know if it will be counties--

**LINEHAN:** It'll be a lot more.

**JON CANNON:** Yes, ma'am, it would--

**LINEHAN:** Yes--

**JON CANNON:** --and boards of equalization--

**LINEHAN:** --because that happens in Douglas County.

**JON CANNON:** Yes, ma'am.

**LINEHAN:** OK, what has-- is there any penalty for when the taxpayer reaches out to the assessor and they don't agree to do anything and then they go to the board of equalization and they don't do anything and then they come to the TERC board and the TERC board says you're right, it's overvalued? Is there any penalty for the county?

**JON CANNON:** No, ma'am, other than they have to process the refund claim. That's-- I, I think that's the, the way the system is set up,

**LINEHAN:** Would a penalty on the county for overassessing make them less likely to overassess?

**JON CANNON:** I mean, that would-- I'd, I'd be curious how you would set that up. I mean, that, that would be-- it, it, it's-- I mean, I, I haven't really considered that, ma'am, and, and certainly, I'd like to have a conversation. I, I, I just don't know how, how you would set that up. It-- would it be a, a penalty based on the tax? Would be a penalty based on the valuation or--

**LINEHAN:** OK, I don't know.

**JON CANNON:** Yeah, I--

**LINEHAN:** Just something I think we should look at if we're going to-- we penalize people and then there's no repercussion against the county if they make a large mistake--

**JON CANNON:** Well, and--

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**LINEHAN:** --that can cost people their property.

**JON CANNON:** Right and, and this bill is, is addressing TERC and so I, I don't-- are, are you, are you referring to a, a penalty for--

**LINEHAN:** No, I'm just asking the question.

**JON CANNON:** OK. Yes, ma'am.

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

**JON CANNON:** Yep, thank, thank you, ma'am.

**LINEHAN:** Are there any other opponents? Are there-- is there anyone wanting to testify in the neutral position? We had-- no written, no written testimony was submitted and we have one proponent letter for the record.

**ERDMAN:** I'll be brief because I'm getting close to my next appointment.

**LINEHAN:** Yes.

**ERDMAN:** So, you know, I appreciate those people who came a long ways to testify. Dr. Cain described exactly what happened to him. We will never-- OK, Senator Pahls, we will never catch up. TERC will never catch up if we continue to do what we're doing, never, and we'll continue to have those people come in like Dr. Cain and the other two testifiers. It will be years and years and they'll never catch up, all right? So what will happen? This is what's going to happen. If what Mr. Cannon said is true, the county's worried about their valuation because, as I said earlier, they're worried about those who collect the taxes. The county assessor is going to start making some common-sense decisions so they don't go to TERC so they know what their value is. All of a sudden, there is, Senator Linehan, a penalty for making a dumb decision and that is you're going to have less value. And so maybe nine months is too long. Maybe what we need to do is shorten it up so that they have that valuation going in so they make their next budget. They know what it is. We will never catch up doing what we're doing. The point today was to prove we have an issue or a problem and we proved that and I think Senator Pahls got the, got the message. Look at all this-- 2013, he's been working with those

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people. And by the way, when they get reimbursed, they don't get any interest and they have up to five years to pay them back. They don't have to pay them back right away. There's a problem, all right? And so what I'm asking you to do is forward this bill, get it to the floor, we'll pass this bill, we will solve all those issues that are pending, and we can go forward with making a different decision on how we handle it going forward. But unless we draw a line in the sand and say it's over, this is the last day we're going to do this, next year, I'll be back and we talk about the same thing we've talked about for 15, 20 years whenever they started this TERC war, all right? It was intended to make a quick and efficient decision about your evaluation and it's drug out for, as you heard, years and years and years. So I ask you to move this bill forward. We'll come to a conclusion of how we go forward to settle it from here, but we've got to fix it and this is how we temporarily fix it until we can fix it permanently. Thank you.

**LINEHAN:** Thank you. OK, thank you very much. That draws the hearing on LB613 to a close.

[BREAK]

**LINEHAN:** Good afternoon. Welcome to the Revenue Committee public hearing. My name is Lou Ann Linehan. I'm from Elkhorn and represent the 39th Legislative District. I serve as Chair of this committee. For safety of our committee members, staff, pages and public, we ask those attending our hearing to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that everyone utilize the identified entrance and exit doors to the hearing room. We ask that you wear your face covering while in the hearing room. Testifiers may not remove their face covering during testimony to assist committee members and tran-- excuse me. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages-- pages will sanitize the front table and chair

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between testifiers. Public hearings for which attendance reaches seating capacity-- that's not going to be an issue today. The Legislature does not have the availability for an overflow room. OK, we ask that you please limit or eliminate handouts. 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 proposed legislation before us today. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please turn off cell phones. The order of testimony will be introducer, proponents, opponents, neutral and closing remarks. If you will be testifying, please complete the green form and hand it to a page 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 12 copies for all committee members and staff. If you need additional-- additional copies, please ask a page to make copies for you now. When you begin to testify, please state and spell both your first and last name. Please be concise. It's my request that you limit your testimony to five minutes. We will use the light system, so when the yellow light comes on, you need to wrap up. Your remarks-- if your remarks were reflected in previous testimony, or you would like your position to be known but do not wish to testify, please sign the white form on the table outside the room by the entrance and it will be included in the official record. Please speak directly into the microphone, so our transcribers are able to hear your testimony clearly. I would now like to introduce committee staff. To my immediate right is committee counsel, Mary Jane Egr Edson. To my immediate left is research analyst, Kay Bergquist, and the left at the end of the table is committee clerk, Grant Latimer. And then if we could have senators starting with Senator Bostar introduce themselves.

**BOSTAR:** Eliot Bostar, District 29, south central Lincoln.

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

**FLOOD:** Mike Flood, District 19, Madison and a little bit of Stanton County.

**BRIESE:** Tom Briese, District 41.

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

**LINEHAN:** Our pages for this afternoon, if they want to stand up. Thank you, gentlemen. This is Jason who is at UNL, political science and history major, and Reid, who is a UNL, econ major. Please remember that Senators may come and go during our hearing as they may have bills to introduce in other committees. Refrain from applause-- applause or other indications of support or opposition. I would like to remind our committee members to speak directly into the microphones. For our audience, the microphones in the room are not for amplification, but for recording purposes only. Last, we are electronics-equipped committee. The 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 critical to our state government. And with that, we will open on LB292. Senator Friesen. Oh, I get it. Thank you. Get to the afternoon.

**FRIESEN:** Close enough. [LAUGHTER]

**LINEHAN:** LB291. Thank you.

**FRIESEN:** Chairman Linehan, members of the Revenue Committee, my name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n. I represent the 34th Legislative District here today to present LB291. It's a very simple bill. LB291 makes minor changes in the protest process for property valuations. This bill would require that when a property owner wants to challenge the valuation of their property, they must fill out the proper form prescribed by the tax commissioner and such-- such form shall include the requested amount of valuation by the property owner. This is a bill that I brought on behalf of NACO and again, a very simple bill. Glad to answer any questions.

**LINEHAN:** Thank you, Senator Friesen. Are there questions from the committee? Did we have this bill before?

**FRIESEN:** No, this is a different bill.

**LINEHAN:** OK.



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**FRIESEN:** I have one similar with a form that you have to fill out, but that's on tax exempt properties.

**LINEHAN:** OK. All right. Thank you, Senator Friesen. I'm sorry, Senator Bostar.

**BOSTAR:** Thank you, Chairman Linehan. Thank you, Senator Friesen. Can you just-- it seems really straightforward, but can you tell me why?

**FRIESEN:** Well, on this form here, the county assessors and I think others, it says there, when you're protesting your valuation, it asks you for what you think the property should be worth, because when you protest your valuation, you're supposed to go out and do the work and find comparables or whatever and come up with a number that you think it should be. And people seem to be leaving that blank, I guess. And so, if you fill out the form, put in the value that you believe it should be at, and that helps them, I guess, in the process of the protest.

**BOSTAR:** Thank you, Senator.

**FRIESEN:** They can probably answer that better. I'm sure someone will be behind me to explain this.

**LINEHAN:** Are there any other questions from the committee? Seeing none, thank you. Proponents.

**TERRY KEEBLER:** Good afternoon.

**LINEHAN:** Good afternoon.

**TERRY KEEBLER:** My name is Terry Keebler, T-e-r-r-y K-e-e-b-l-e-r. I'm the Johnson County Assessor here representing NACO and Senator Friesen's bill. We're here in support of this. I was county commissioner for over 12 years before becoming assessor two years ago. When these forms came in, it just helps to have a number there so you kind of know what they're trying to accomplish. A lot of times as commissioner, the forms that we got, if they did have a number, would have last year's valuation, which at least let you know they just didn't like the increase. But some of them actually will do the research and put a number in there that gives you some indication of what they're coming-- where they're coming from, what they want to achieve. It just helps the assessor as they're preparing for the

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hearing in front of the Board of Equalization, try to see what they can do if there is something they've missed in the valuation, so. With that, I'd take questions.

**LINEHAN:** Thank you, Mr. Keebler. Are there questions? Yes, Senator Albrecht.

**ALBRECHT:** Thank you, Chairman Linehan. Do they normally have an appraiser kind of help them out and get a strong number?

**TERRY KEEBLER:** Almost never.

**ALBRECHT:** Almost never. So they're just grabbing a number out of that.

**TERRY KEEBLER:** They are.

**ALBRECHT:** OK, thanks.

**TERRY KEEBLER:** Once in a while, they will come in and talk to the assessor and try to arrive at a number before they fill out the protest.

**ALBRECHT:** Um-hum, thanks.

**LINEHAN:** Thank you, Senator Albrecht. Other questions from the committee? So I know Johnson County pretty well, you haven't had, like, the explosion in values there that they have in other parts of the state, have you?

**TERRY KEEBLER:** Not now. We did, you know, back 10 years ago when farmland was going up.

**LINEHAN:** But now it's pretty flat.

**TERRY KEEBLER:** Now it's pretty flat, yeah.

**LINEHAN:** Yeah, residential is pretty flat too, isn't it?

**TERRY KEEBLER:** Excuse me.

**LINEHAN:** Residential is flat too, isn't it?

**TERRY KEEBLER:** It's starting to go up, especially the rural residential.

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**LINEHAN:** Rural residential.

**TERRY KEEBLER:** Yes. Some of the small towns are seeing a pretty good increase in the last few years.

**LINEHAN:** OK. All right. Other questions from the committee? Seeing none, thank you very much, Mr. Keebler.

**TERRY KEEBLER:** Thank you.

**JON CANNON:** Good afternoon, Chairwoman Linehan, distinguished members of the Revenue Committee. My name is Jon Cannon J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials. I will also refer to it as NACO here to testify in support of LB291. First and foremost, thanks as always to Senator Friesen for bringing this bill on behalf of NACO. This is one of those bills that we think really helps clarify the process. I remember when I first started getting involved in the property tax process, one of the things that people would say is, you could really bring your-- your protests on a cocktail napkin and bring it forward and the clerk has to process that and that is true. The Department of Revenue has been kind enough to promulgate a form that people can use. It's a helpful reform. It's a guideline form, but it's not really required. And so there are a number of elements that would be very, very helpful to a county board. One thing I would like to point out is there is no strict requirement that a county board has to hold a hearing for the taxpayer when they're-- when they're-- they don't have to invite the taxpayer in to have the hearing on their property. They can just hold the hearing themselves as a-- as an open meeting and if you happen to show up that day, then so much the better. And so to the extent that sometimes you won't even have a property owner that comes in for that hearing, or sometimes they just leave-- when they leave it blank, it really is helpful for the county board to say, you know, here's a number that we can latch on to. And frequently when you do put that number down, if it's a difference of a thousand dollars, what we would refer to is a mere difference of opinion. You know, that's something that at that point, the assessor would-- would have the opportunity to contact the taxpayer and say, you know, let's-- let's visit about this a little bit further. And then, of course, if you have that 10, 15, 50 thousand dollar difference between the assessed value and what the property owner is asking for, you know, then we have something to talk about and that's-- that's something that really belongs in front of

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the county board. So this-- this is a very helpful cleanup bill. It gets information-- the proper information in front of the county board. And it makes sure that-- that the property owners that really want to protect their value because of a significant difference of opinion, actually have that information brought forward to the county board. With that, I'd be happy to take any questions.

**LINEHAN:** Thank you very much, Mr. Cannon. Any questions from the committee? Seeing none, thank you much.

**JON CANNON:** Thank you.

**LINEHAN:** Are there are other proponents? Any other proponents-- any opponents? Anyone want to testify in the neutral position? I've got to find my sheet here. We had no letters-- no letters. We had no written testimony submitted. So would you like to close then?

**FRIESEN:** I'll waive closing on that and we can move on to the next one.

**LINEHAN:** OK, we close the hearing on LB291 and open the hearing on LB521.

**FRIESEN:** Chairman Linehan, members of the Revenue Committee, my name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n, represent 34th Legislative District. I'm here today to present LB521. LB521 would require the State Tax Commissioner to include on the Form 451, the form used to apply for a tax exemption on real and personal property, a place for the qualifying organization to list a value of the property they are seeking an exemption for. Failure by the qualifying organization to provide such information would result in automatic denial of the property tax exemption application. By providing this information it would give local government subdivisions and the state an idea of how much valuation to exempt from taxation. While it may be difficult to place a market derived value on some properties like churches or schools, most of these buildings are insured for at least a replacement value, and the land under would be valued like land on any other residential or commercial property. We have the spot. It's on the application form. When you apply for an exemption, I think you, if I remember, I have to apply every so many years and then in the alternate years, you're just kind of automatically given that. But when you fill out a form, if a question isn't relevant, we should take

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it off the form. And if the question is on there, it should be filled out, is the way I feel. And we don't track how many dollars of exempt property we have in the state and yet it's supposed to be required in our tax expenditure report. It is a tax that we're not collecting that we've decided to exempt. So unless we know what those values are and I think everybody can come up with some sort of value, whether it's an insurance value or anything else, it's not so hard to find a value to put into that spot. So that's all this is, basically is requiring a person to fill out the blank, put a value in the exempt property that you're requesting an exemption for.

**LINEHAN:** Thank you, Senator Friesen. Are there questions from the committee? Seeing none, thank you. Are there proponents?

**TERRY KEEBLER:** Afternoon again.

**LINEHAN:** Good afternoon, sir.

**TERRY KEEBLER:** My name is Terry Keebler, T-e-r-r-y K-e-e-b-l-e-r. I'm Johnson County Assessor here representing NACO. Want to thank Senator Friesen for bringing this. These forms are due every four years and years divisible by four. And the three intervening years, they just fill out a affirmation that nothing has changed. And these are for charitable or religious ag societies, any organization that is entitled to a permissive exemption. So these are not subdivisions of the state. These would be nonprofit organizations typically, or religious. So they fill this out before December 31st. The other bill that was brought, I think, last week was to extend this deadline to March 1st for the assessor to-- to turn this into the county board. So right now, we have until February 1st for the assessor to review these, recommend approval or disapproval. So the number in there will probably not change recommendation of approval or disapproval, it'll just be information so that we can get those aggregate numbers of how much we're exempting.

**LINEHAN:** Thank you. Are there questions from the committee? It's not just a nonprofit, right? They have to be-- they have to fit in-- like all non-profits don't qualify, right?

**TERRY KEEBLER:** No, not all nonprofits qualify. They have to be a religious, educational, charitable organization or the-- an ag society

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cemeteries. Although once cemeteries qualify, they don't have to fill it out again.

**LINEHAN:** OK. All right. All right. I see no questions, so thank you for being here.

**TERRY KEEBLER:** Thank you.

**LINEHAN:** Good afternoon.

**JON CANNON:** Chairwoman Linehan. Good afternoon, distinguished members of the Revenue Committee, my name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials, also known as NACO, here to testify today in support of LB521. Senator Friesen and I have had plenty of conversations about tax policy. He's always been very interested in this. And I remember one time he asked me the question, you know, we have this tax expenditure report that we're supposed to fill out and we never receive this information. And I said, well, on the Form 451, sir, that-- that information isn't required. He says, well, you know, by golly, it should be. And I agreed with him and so I would feel pretty silly if I-- if I didn't testify as a proponent of this after having agreed with him in a prior conversation. But this is helpful information to help us form tax policy. When we understand exactly what each of these exemptions that we have is costing, you know, the people that we're asking to pick up the slack. I mean, charitable organizations, there's a reason we exempt them. That's fine. But they do rely on the sorts of services that we provide. And, you know, it's helpful to know exactly how much is being provided to these organizations that are exempt. You know, as far as an exemption is concerned, you know, and as opposed to the load that's being borne by everyone else in the property tax base. And so as far as forming decisions as the Legislature, I think this is going to be helpful for you. You know there is the question as to whether or not someone should put down an insurance value versus a replacement cost new, but by and large, I think at the very least, it gives us a starting point so that if we do have conversations about tax policy that involve who we should exempt, we've got something to latch on to. And with that, I'd be happy to take any questions. Thank you.

**LINEHAN:** Thank you, Mr. Cannon. Mr. Bostar-- Senator Bostar.

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**BOSTAR:** Thank you, Chairman Linehan. Thank you, sir. Douglas County says that this-- they might need to add a full-time position to accomplish this. So I wanted to get your thoughts on that. But also if-- let's say we say that that's correct. Would I be correct in thinking that that wouldn't be something that most counties would have to do? I mean, essentially would Douglas County need to do this just because the volume that's received in that populated of a county, or are they indicating something that might become a burden to more county offices?

**JON CANNON:** Well, Senator, my-- my expectation is that it is almost exclusively related to the volume that they would have to-- to work with and work through. I think, for the-- the majority of counties, it'll be a question as to whether or not this field was filled out. And if not, well, you have to fill this out, otherwise, you're not going to get the exemption. I suspect that most people will probably fill out, put-- put some sort of number in there. And-- and again, hopefully they put in something that we can grab ahold of. And we know, I think when we aggregate, you know, thousands of these across the state, that we'll have numbers that we can see are somewhat reliable as far as the starting point for a conversation. But as far as Douglas County, I think you're right. It's-- it's almost exclusively related to the volume.

**BOSTAR:** Thank you.

**JON CANNON:** Yep, thank you, sir.

**LINEHAN:** Thank you, Senator Bostar. Are there other questions from the committee? They have to handle these forms anyway, right?

**JON CANNON:** Yes, ma'am.

**LINEHAN:** So why would it cost more if-- to follow up on Senator Bostar's question, why would did it cost more if they actually put the value there?

**JON CANNON:** I think that by virtue of the fact that it's such a large population, they're getting a lot of forms from a lot of different places and tracking down those persons that did not, for whatever reason, did not fill out that-- that form completely, it's probably going to-- I don't want to speak for them, but my expectation would be

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that-- that they would say that the, the work required to track down those people to say, hey, oh, by the way, the December 31st deadline is coming up, you really need to hustle on down here and and fill out this form. Probably with that volume is enough to, you know, require a full-time exemption-- or full-time employee.

**LINEHAN:** OK, any questions? Thank you very much.

**JON CANNON:** Yes, ma'am. Thank you.

**LINEHAN:** Are there other proponents? Are there any opponents? Is there anyone wanting to testify in a neutral position? We had no written testimony submitted on LB521, and no letters. Would you like to close? Senator Friesen waives closing, so that brings LB521 to an end and we'll go to LB611. Hello.

**BEAU BALLARD:** I know. Good afternoon, Chair Linehan, and members of the Revenue Committee. My name is Beau Ballard. For the record, that's B-e-a-u B-a-l-l-a-r-d, and I'm the research analyst for Speaker Mike Hilgers. I'll be brief today. I'm here to open up on LB611. This is just a Revisor bill intended to clarify some language and regarding the property tax. So with that, I'll close.

**LINEHAN:** Are there questions? Thank you. Are there any proponents, any opponents, anyone wanting to testify in the neutral position? There was no written testimony submitted and no letters submitted. Mr. Ballard waives closing, so that brings us to the end of the hearing on LB611 and we'll go to LB622. Senator Friesen.

**FRIESEN:** We're having fun this afternoon. Chairman Linehan, members of the Revenue Committee, my name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n. I represent the 34th Legislative District. I'm here today to present LB622. LB622 aims to limit the growth in valuations to 3 percent over the previous year's assessment for residential, commercial and agricultural land values. If the total assessed value of all nonagricultural-- agricultural or horticultural lands exceeds 3 percent in growth over the prior year, the tax commissioner would have to calculate an adjustment ratio to uniformly and proportionately adjust the assessed value of all such lands and real property. The commissioner will then issue an order for each county assessor to adjust the assessed values by the adjusted ratio. Excluding-- excluded from the 3 percent would be any new growth, new construction or



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additions to existing buildings that would create value. LB622 also amends 77-5023 requiring TERC to use an acceptable range of 69 to 75 percent for ag land after taking into account the adjustments made by the tax commissioner. The acceptable range for ag land receiving special valuation shall be a percentage variation similar to the 69 to 75 after taking into account the adjustments made by the tax commissioner. For all other property, the percentage variation similar to 92 to 100 percent shall be an acceptable range again after taking into account the adjustments ordered by the tax commissioner. TEEOSA would also see a change under LB622. For real property, state aid value would be 96 percent of actual value and if the tax commissioner sets an adjustment ratio, that number would be 4 percent less than the actual value. For ag land, the actual value to be determined, aid would be 72 percent. Again, the commissioner sets the adjustment value, the number would be 3 percent less. So one of the main reasons I brought this bill and I think there's going to be some testimony saying that does certain things or affects school districts in a certain way is, recently in Hall County they wanted to meet with me and some of the other Senators represent that area and what they had happen was they had commercial-- commercial apartment buildings that increased in 150 to 200 percent of value in one year. And so, you know, in asking questions, none of the property owners are really protesting the value. They thought it was a fair value that had been reached, but they were mad about the rapid increase of 200 percent. In one case, the owner said he'd have to raise his rent \$45 a unit just to break even on the taxes. And he said that was unacceptable, he couldn't do that to his tenants. He said it was unreasonable. And so they were wondering what we could do. We could freeze property tax values and I said, well, no, that's not going to happen because I've warned everybody this is coming. But again, if-- I think what happened and I don't-- I'm-- I'm assuming some things here. I'm assuming that an assessor maybe hadn't assessed these properties in a long time and somebody retired, someone else took their place, suddenly looked at these properties, and suddenly you're seeing a 200 percent increase in value when you should have been seeing, you know, 8 and 10 percent increases in the past 10 years maybe. And so these spikes, I don't know how businesses can make a business model to plan for a spike like this in their taxes. It's unreasonable. No, this isn't a property tax relief bill for ag. In fact, it probably works the opposite, but I saw something here that is just not right and it goes back to how we assess properties and-- and the fairness of the issue. And I

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understood that, but I think, again, either there's a failure of the property tax administrator to oversee that program because things like this shouldn't happen. With that, I'd be glad to answer any questions.

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

**BOSTAR:** Thank you, Chairwoman Linehan. Thank you, Senator Friesen. So in the story that you described, you said that the property owners thought that the final assessed value was accurate, but it was the rate at which the value was increased was problematic, is that?

**FRIESEN:** That's correct. I mean, none of them were protesting their final value to me. They just were very disappointed in how fast of an increase they had to absorb.

**BOSTAR:** So and I-- and I think that's really understandable. But in this scenario, they essentially were underpaying property taxes for however long.

**FRIESEN:** You're absolutely correct.

**BOSTAR:** And, so at 3 percent, let's say that, you know, your hypothesis that you get a new assessor, hadn't been looked at in a long time or whatever it was, right, and then they realized, hey, wait a second, you know, these-- these buildings are worth a lot more than we previously had assessed. At 3 percent annual growth, you know, I mean, in order to get to a 200 percent increase, it would take quite a long time. Right. And the idea being that over that period of time before you could reach what we might agree would be the accurate value, they would still be underpaying and contributing into the tax base.

**FRIESEN:** Maybe this would incentivize the assessors to do their job.

**BOSTAR:** We see a lot of bills that are designed to incentivize the assessors to do things. Thank you very much, Senator.

**FRIESEN:** So we randomly picked a number. I'm not saying that 3 percent is the number. I'm pointing out that there should be some cap here when this happens. You know, you've got to understand businesses and especially, you know, commercial apartment buildings, they set their-- their rents and they're trying to hold down the cost of housing and

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then you throw kind of an increase of this at them. If you do it a little bit a year and it's increasing in value, they understand that, they can build it into their model. But to just say in one year, your property value is now 200 percent higher than what it was the year before, somebody failed there. And so--

**BOSTAR:** And to be clear, Senator, I-- I-- I agree with you that the, the rapid increase is extremely problematic and isn't-- is-- puts businesses or individuals or anyone, for that matter, any property owner in a particularly challenging position. Thank you very much.

**LINEHAN:** Thank you, Senator Bostar. Other questions from the committee? You will close on this one, right, because I have some questions, but I want to wait, so.

**FRIESEN:** Sure.

**LINEHAN:** Are there proponents? Any proponents? Anyone wishing to testify as an opponent?

**JON CANNON:** Good afternoon, Chairwoman Linehan, distinguished members of the Revenue Committee. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials, also known as NACO, here to testify in positive opposition to LB622. I hope we can have a good conversation about this because this really does get us into the guts of how our property tax system operates. Senator Bostar, I think your question was kind of getting us on down that road. But first and foremost, as far as this bill is concerned, my understanding is that what we would do is we would divide the world into the categories of ag and nonag. And in each of those categories, we would figure out an aggregate assessed value across the state for each of those categories. And we would say that those aggregate values cannot go more-- up more than 3 percent for the assessed values. And so we're going to apply a factor and that's how we get to assessed values. I don't think that this bill is going to address the situation in the apartments in Grand Island that prompted where we were, because, frankly, when you take the, the entire cloud, the entire category of nonag, which would be residential and commercial, and you lumped apartments in Grand Island in with them, I mean, it really is not going to move the needle. So I don't think that the aggregate factor is going to make much of a difference, but I do want to talk about how this aggregate factor would work. First of all,

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it would have some-- and I want to lead with-- it would have some unintended consequences. You would have by virtue of the fact that we're going to ratchet down our level of value that we have for the categories of ag and nonag, well, when we ratchet those down over time, you're going to have that situation where you have someone's values actually decline. But by virtue of the fact that they're still trying to catch up, they're going to have an increase in their assessed value. Now, you-- and I think the answer to that would be, well, yeah, but you've been lagging the market anyway by virtue of the fact that we've ratchet you down, so the fact that you're still climbing, I mean, while that-- that might come as consolation to some from a policy standpoint, but it probably does not come as much consolation to the taxpayer when they see that their assessed value has gone up, even though we know that there's been a decline in the market. Also, this would create a double whammy in those small counties that are experiencing a decline. So if, for instance, you had, let's say, Deuel County out there in western Nebraska in Chappell, and their residential values have been declining markedly over time. But, oh, by the way, we're looking at the aggregate across the state and market values in Douglas County and Lancaster County have taken off. And so your aggregate values have gone up. We're going to have that-- that factor that's going to be applied. And so the folks in Deuel County, they've got a declining residential market, plus the fact that we're going to apply this factor. I'm-- I'm not sure that that's-- that's quite where we want to go as far as-- as far as a tax policy is concerned. I don't know how he would do it on a-- on a localized basis. But again, this does get into kind of very core property tax issues and so I'd love to have a conversation. With that, I will-- I will stop talking and I'd be happy to take any questions that you might have.

**LINEHAN:** Are there questions from the committee? Seeing none, thank you.

**JON CANNON:** Yep, thank you, ma'am.

**LINEHAN:** Other opponents?

**CONNIE KNOCHE:** Good afternoon, Chairperson Linehan, and members of the Revenue Committee. My name is Connie Knoche, K-n-o-c-h-e, and I'm the education policy director at OpenSky Policy Institute. We're here today in opposition of LB622 because we appreciate its attempt-- while

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we appreciate its attempt to reduce the state's reliance on property taxes, we are concerned it will not only reduce revenue for schools and other local governments, but it will also shift taxes from those with rising valuations to those whose property values are flat or decreasing. Currently, it is ag landowners that are likely to see property taxes go up and residential commercial property owners that would see their property taxes go down if LB622 were to pass. For example, in FY19, ag land declined in valuation so it wouldn't have been adjusted. Residential and commercial on the other hand, increased above 3 percent, so it would have been subject to an adjustment ratio of 97.2 percent. That means those local governments with a mix of ag, residential and commercial properties would have likely increased their levies to make up for the revenue lost when the valuation goes down. Ag property owners would therefore have seen their property taxes go up, even though ag valuations had declined. The loss in revenue due to commercial and residential value growth being adjusted down will result in a loss of revenue for many local governments. For example, in FY19, LB622 would have left the City of Omaha with about \$2.8 million less in revenue and Lincoln with about 1.9 million less. Both would have been required-- would have required a levy increase in order to make up for the revenue loss. Additionally, LB622 creates some losers among the school districts, primarily among those that don't qualify for equalization aid and those districts with a mix of ag, residential and commercial properties. We estimate that in tax year 2020, 199-- 192 school districts would have lost revenue under LB622. Eighty-six of those districts would have received additional equalization aid, increasing their total calculated state aid by \$32 million based on the 2021 state aid certification data. One hundred and fifty-five schools could make up the loss of revenue by increasing their levies, and 39 of those school districts would not be able to increase their levies to offset the loss of revenue because they are at their maximum levy limit. These 37 districts would have lost approximately \$5.8 million in revenue. An equalized district by Norfolk that had a total of about a dollar nine in tax year 2020 would have received an additional 625,000 in state aid under LB622 assuming its funded. Because they are at their levy limit, they could not recoup a loss of \$92,000 in revenue that isn't filled in by state aid. This would compound year over year. A nonequalized school district like Aurora that had a total levy of eighty cents in tax year 2020 would not qualify for equalization aid under LB622 and would have to increase their levy to make themselves whole. This levy increase would

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increase ag land property taxes, even though the ag land valuations decrease statewide. As a result of the issues that arise from LB622, we would encourage you not to advance it out of committee. We thank you for your time and I'm happy to answer any questions you may have.

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

**TERRY KEEBLER:** Good afternoon again. My name is Terry Keebler, T-e-r-r-y K-e-e-b-l-e-r, and I'm here as a representative of NACO testifying in opposition to LB622. As Mr. Cannon said earlier, some of the unintended consequences and not addressing directly what Senator Friesen had wanted to because you are doing the aggregate and not a individual. And we do have those sharp increases in property values sometimes. When I read a commercial last year we had some properties that doubled in value and then looking back, trying to figure out why those doubled, some of it was because they had been very severely undervalued, either at the last appraisal or because those values were protested after the last appraisal and lowered and were never looked at in-between to bring those back to equalization with their surrounding properties. So while it's a shock to get the big increase, we're also bound by the laws and regulations from the department to achieve equalization for all the properties. So with that, I'll close and take questions.

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

**TERRY KEEBLER:** Thank you.

**LINEHAN:** Go ahead.

**KYLE FAIRBAIRN:** Good afternoon, Senator Linehan, members of the Revenue Committee. My name is Kyle Fairbairn, K-y-l-e F-a-i-r-b-a-i-r-n. I represent the Greater Nebraska Schools Association, GNSA. We're an organization that represents 24 of the largest school districts in the state. For my testimony today, I'm also representing Nebraska Council of School Administrators, NCSA, Nebraska Association School Boards, NASB, and Schools Taking Action Against Nebraska Children's Education, STANCE. And I'm sure glad that Mr. Cannon and Ms. Knoche can understand this formula because it's a-- it was a tough one for me. So as I went through it, we do have some

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concerns. We are opposed to the-- to the bill. It will add \$32 million to the state aid formula. Again, many of the schools I represent would-- would be on the receiving end of that money if the valuation in the state had the money to-- to put into that. The concern is that 155 school districts around the state would have to increase their levies to-- to make up for the loss. That is a big concern as it is not going to affect property or agricultural property taxes in a positive manner. So with that, I would ask you not to advance LB622 out of committee, and I'd sure take any questions if you have any.

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

**KYLE FAIRBAIRN:** Thank you.

**LINEHAN:** Are there other opponents?

**LYNN REX:** Senator Linehan, members of the committee, my name is Lynn Rex, L-y-n-n R- e-x, representing the League of Nebraska Municipalities. We're here today respectfully opposing this measure. We do think that as Jon Cannon representing NACO testified, it has unintended consequences. As Senator Friesen already stated, I'm not sure it would even help agriculture in many instances. So that being said, we are concerned about loss of revenue options for municipalities. We also are concerned about the disparate impact of creating winners and losers in categories that are probably not even anticipated today. And I know Senator Linehan, you, in talking about property tax relief last year, I believe it was a six point nine, nine five percent increase in valuation on the residential side. On the commercial side, ag went down. I mean, those things do change. And I think this is not taken into consideration those types of changes either. So with that, we are concerned about the unintended consequences, but also funding for local governments and the stability of that funding. With that, I'm happy to respond to any questions that you might have.

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

**LYNN REX:** Thank you very much. We're always willing to work with Senator Friesen and this committee, of course.

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**LINEHAN:** OK, thank you. Are there other opponents? Is there anyone wanting to testify in the neutral position? Senator Friesen, would you like to close?

**FRIESEN:** Thank you, Chairman Linehan. So one of the comments made that ag land values are going down and yes, at times ag land values were going down and our assessed value was going up because it's not a year on year valuation. It's a-- I don't know why they call it a 3-year rolling average. It's not really, it's a medium or something like that, but they don't respond immediately to market prices. That's not how that works. And if I could just step in the Hall County situation, I can't do that because the uniform and proportional doesn't let me do that so we are doing it in an aggregate. And so, again, I'm kind of confused then when I'm told that it really doesn't do anything. And yet when you look here at Douglas County and certain schools it's going to supposedly do something to them, but if you're doing an aggregate on Douglas County, I mean, they show basically they have a 7-- 7 percent growth and-- but you're doing an aggregate. I don't know that it's going to hold them down the way it sounded from some of the testimony, but in other ways that it-- I made it sound like it was-- we were going to do something big. So I'm not sure now when you're doing an aggregate by class, this wasn't intended to be a property tax relief bill, it really wasn't. Not-- I've got better bills than that. But again, it highlights kind of some of the things that are happening in different areas and when you're seeing, like right now, I think ag land has been fairly steady where you see the-- or the residential commercial has been fairly steady at around a three and a half percent in the last 10 years. You also see ag land in the fiscal note has gone up 10.2 percent in the last 10 years. So there's quite a disparity there then in how we fund education just in what value has happened to be doing. And again, if we're going to be undervaluing commercial properties by that much, can you imagine looking at commercial values across the state if they're all 100, 150 percent below where they're supposed to be? I don't know. I'm a little concerned now that there's other areas that could be doing this also. I'm not sure. I was always depending upon our property tax administrator to make sure that all values fit in that range and we're uniform in proportion, and evidently, they're not. With that, I would be glad to answer any questions.

**LINEHAN:** Thank you, Senator Friesen. Are there questions from the committee? Seeing none, thank you very much. Now, list. Wait, I'm



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sorry. We did have written testimony. Proponents, Jerry Stilmock for the National Federation of Independent Businesses and Nebraska Bankers, proponent. And we had two proponent letters and two opponent letters. So with that will bring LB652 to a close.