

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee February 26, 2021  
Rough Draft

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**LINEHAN:** Welcome to the Revenue Committee public hearing. My name is Lou Ann Linehan. I'm from Elkhorn. I represent Legislative District 39. I serve as Chair of this committee. For the 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's 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 you utilize the identified entrance and exit doors to the hearing room. We request that you wear a 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 the testimony. Pages will sanitize the front table and chair between testifiers, Public hearings for which attendance reaches seating capacity or near capacity, the entrance-- 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 hear-- excuse me. People-- persons waiting to enter a hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the ability, due to HVAC project, of an overflow hearing rooms for hearings which attract several testifiers and observers. For hearings with large attendance, we request only testifiers enter the room. We ask that you please limit or eliminate handouts. The committee will take up the bills in the order posted. Our hearing-- our hearing today is your public part of the legislative process. This is your opportunity to express your position on pro-- 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 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 the page to distribute. We need 12 copies for all committee members and staff. If

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you need additional copies, please ask the page, and I will introduce them in a second, to make copies for you now. When you begin to testify, please state and spell your first and last name for the record. Please be concise. It is my request that you limit your testimony to five minutes. We will use the light system. You will have green-- four minutes on green, one-- when it goes yellow, you need to wrap up-- up. If it gets to red, I will ask you to stop. If there are a lot of people wishing to testify, we will use-- we're not going to do that this warning. If your remarks were reflected in previous testimony or if you would like your position to be known but do not wish to testify, please sign the white form 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. I would 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. To my far left, at the end of the table, is committee clerk Grant Latimer. Now I would like the senators to introduce themselves, starting at my far right.

**PAHLS:** Thank you, Chair. Rich Pahls, District 31, southwest Omaha.

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

**LINDSTROM:** Brett Lindstrom, District 18, northwest Omaha.

**FLOOD:** Mike Flood, District 19, Madison and part of Stanton County.

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

**LINEHAN:** Senator Albrecht is introducing a bill in another hearing. Hopefully she'll be able to join us later. This morning our pages are, if they would stand up, Thomas and Turner, both who attend UNL and both who 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. Ref-- please 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 electronics equipped.

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Committee information is provided electronically, as well as in paper form; therefore, you may see committee members referencing information on the electronic devices. Be assured that your presence here today and your testimony are important to us and critical to our state government. Good morning, Senator Kolterman.

**KOLTERMAN:** Good morning, Senator Linehan. Am I ready to go?

**LINEHAN:** You're ready to go.

**KOLTERMAN:** Good morning, Chairman Linehan, members of the Revenue Committee. My name is Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n. I'm here to introduce LB18, a bill that will clean up a couple of provisions in Nebraska-- ImagiNE Nebraska Act. Over the past several months, while ImagiNE Nebraska Act has been implemented, a few minor issues have arisen that need to be addressed to fully meet the intent of the Legislature when it passed LB1107 last year. Every time the Legislature has enacted comprehensive economic incentive legislation, there's followed in subsequent sessions minor tweaks that need to be adjusted, for example, like Senator Brandt was doing with LB524, the Nebraska ImagiNE-- and ImagiNE Nebraska Act is no different with this bill. LB18 will address a couple of those issues we've found. First, the Nebraska Advantage Act provided incentives for the assembly, fabrication, manufacture, or processing of tangible personal property. This language was then transferred to the ImagiNE Nebraska Act because the Department of Revenue had treated the terms "manufacturing" and "processing" in-- interchangeably. However, due to recent Supreme Court decisions handed down after the passage of LB1107 last summer, Ash Grove Cement Company v. the Nebraska Department of Revenue, the court concluded that processing is a separate business activity from manufacturing. Since processing is not defined as a business activity in ImagiNE Act, we need to establish that definition in this bill. Second, as we went through the legislative process, we were told by the Department of Economic-- by-- by the Department of Revenue and the Department of Economic Development that everyone who qualified under the Nebraska Advantage Act would qualify under the ImagiNE Act. As we all know, on large bills, sometimes things do fall through the cracks, and in September of 2020, my office was contacted by an owner of a business located in Senator Murman's district who succ-- successfully completed an application under the Advantage Act, was inel-- ineligible to apply for ImagiNE. As it was not our intention to

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exclude anyone who previously qualified, I told a business owner I would bring legislation to fix the oversight. While this does give a slight fiscal impact, I want to remind you that we established a hard cap on this program last year and the new qualified businesses would still fall under that hard cap, so it will not increase the cost to the state of Nebraska. Finally, the last provision would allow any person employed in Nebraska and subject to Nebraska income tax on compensation received from the business to be counted in the termination of computation of the full-time-equivalent employee. I want to give a little bit of background on this issue. For a business to qualify for incentives, they must have a physical location in Nebraska and the jobs they create must be physically located in Nebraska. However, a provision in ImagiNE also required all new full-time jobs be filled only by Nebraska residents. There's already a perception that this program is for Lincoln and Omaha, but this provision is a poison pill for small manufacturers and processors in border communities. If they aren't allowed to pull from the entire workforce base available to them, including those potential employees who may live across the border, companies will be hesitant to invest in those localities. In the following months since the enactment of the Nebraska-- ImagiNE Act, I've heard from multiple companies and communities from across Nebraska, and especially those near our borders, who are asking for this provision to be removed. This issue affects more than Omaha and Bellevue. Companies that are located in all of our border communities, such as Deshler, Sidney, Nebraska City, South Sioux City, Endicott, or Blair, I've heard from all of them and they all attract workers from communities in our states. I want to be clear. By modifying the requirement, individuals who work from home 100 percent of the time will not qualify and be counted, but those who commute from another state into our state to work will be allowed to be counted in these as these employees do pay Nebraska state income tax and other taxes that benefit our state, as an example, unemployment tax. This technical fix is identical to the technical fix that was done to fix the provisions in the Key Employer and Jobs Retention Act. It's also in line with past legislative remedies, and it maintains the intent and incentive to support in-state job creation. My understanding is that this provision was originally included in LB775, the first of our incentive packages, but was removed from the program because the residency requirement created an auditing and compliance nightmare. A residency requirement has never--

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was never included in the Nebraska Advantage Act for the same reason. With that, I want to thank you for your attention. I'm open to any questions you might want to ask.

**LINEHAN:** Thank you, Senator Kolterman. Are there questions from the committee? Seeing none, will you stay to close?

**KOLTERMAN:** Yes, I will.

**LINEHAN:** OK. First we have proponents. Are there proponents? Good morning.

**RYAN PARKER:** Good morning.

**LINEHAN:** You can go ahead. I'm sorry.

**RYAN PARKER:** Thank you. Chairwoman Linehan and members of the Revenue Committee, my name is Ryan Parker, R-y-a-n P-a-r-k-e-r. I'm president and CEO of Endicott Clay Products. We are a 100-year-old, family-owned brick manufacturing company located near the village of Endicott in Jefferson County. I'm here today to testify on behalf of the Nebraska Chamber, Nebraska Bankers Association, Greater Omaha Chamber, and the Lincoln Chamber of Commerce in support of LB18, a bill to clarify how the residency requirements for jobs created under the ImagiNE Act are defined. Good jobs grow communities and all jobs created under the ImagiNE Act are Nebraska jobs. State and local economies do not stop cleanly at state borders. Instead, regional economic ecosystems of cross-border commerce, talent attraction, and natural resources create unique competitive advantages and disadvantages and challenges. Communities all along Nebraska's vast borders depend on a regionalized economy and workforce to spur growth. To be eligible for incentives under ImagiNE, employers must be physically located in Nebraska and the jobs they create must be physically located in Nebraska as well. The employer pays income taxes, sales taxes, and property taxes to Nebraska, and the jobs they create pay income taxes to our state. Last year, in the waning days of session, a well-intentioned provision in ImagiNE Nebraska required all-new, full-time jobs created under the economic incentive program to be filled by Nebraska residents. History shows this type of provision inhibits a community's ability to compete for economic development projects and discourages an important pipeline of talent and in-migration to the state. Such a provision was

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included in the old LB775 program, and it was eventually scrapped for these reasons. LB18 would replace the residency requirement for jobs created under Imagine Nebraska with a requirement that only new jobs located in Nebraska and subject to Nebraska income tax are eligible for incentives. This technical fix is in line with past legislative remedies and amendments to Imagine Nebraska. It preserves legislative intent that incentive benefits only be applied to in-state job creation. LB18 would preserve in-state job creation requirements under Imagine and ensure equal opportunity for community growth. Without this provision, communities and businesses like ours, which draw employees from across border footprint, would be at a disadvantage for business growth and development as compared to other Nebraska communities. Companies like ours have employees that live across the border but pay Nebraska income tax and sales and local sales taxes, all the while not drawing on Nebraska public benefits. In our case, our company is located just four miles from the Kansas line, and given the lack of workforce to draw upon, I'd be in a real pinch without those folks. I would encourage you to advance LB18 from committee for consideration by the full Legislature. Thank you for the opportunity to testify, and I'd be happy to try to answer any questions that you may have.

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

**BRIESE:** Thank you, Chairman Linehan. Thanks for your testimony here today. Maybe you said it. If you did, I missed it. I'm sorry. But what percent of your employees are Nebraska residents versus nonresidents?

**RYAN PARKER:** Roughly 90 percent of our employees are Nebraska residents.

**BRIESE:** OK. OK, thank you.

**LINEHAN:** Other questions from the committee? How many employees is it, sir?

**RYAN PARKER:** We have approximately 300 employees.

**LINEHAN:** And you've been in Endicott for 100 years?

**RYAN PARKER:** Hundred years-- well, 101 now.

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**LINEHAN:** Hundred and one years, OK. Are there any other questions from the committee? Thank you very much for being here, Mr. Parker, appreciate it.

**RYAN PARKER:** Thank you.

**LINEHAN:** Good morning.

**JONATHAN JANK:** Good morning. My name is Jonathan Jank, J-o-n-a-t-h-a-n J-a-n-k. I'm the president and CEO of the Seward County Chamber and Development Partnership and current president of Nebraska Chamber of Commerce executives. I'm here today to testify on behalf of our members and local chambers across Nebraska in support of LB18. Chamber of Commerce executives work every day to support their local businesses and grow their communities. In rural Nebraska, our communities often pull talent from an entire region and four communities within 50 miles of a Nebraska border. This can often mean pulling from across state lines. Employers in Nebraska border communities are critical to our rural Nebraska growth. They create good Nebraska jobs and pay property, sales, and income taxes. LB18 would preserve in-state job-creation requirements under the Imagine Nebraska Act for these employers, yet ensure equal opportunity for every community in Nebraska to grow. LB18 makes it clear that when an employer creates a Nebraska job, one subject to Nebraska income tax, they are eligible to earn incentives for that job, whether that employee travels to work across state lines, is a student, intern, or apprentice from out of state or is an H-1B worker. This change would not provide incentives for remote workers. Remote workers who work outside of Nebraska are not subject to Nebraska income tax and would not qualify under the language of LB18. From Chadron to Sidney, to McCook, Falls City, Fremont to South Sioux City, local Chamber of Commerce executives are supportive of this change so that all communities in Nebraska have equal opportunity to compete for economic development projects and draw on this key talent pipeline. I would encourage you to advance LB18 from committee for consideration by the full Legislature. Thank you for the opportunity to testify. I would be happy to try and answer any questions.

**LINEHAN:** Thank you, Mr. Jank. Are there questions from the committee? Mr. Bostar-- or Senator Bostar.

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**BOSTAR:** Thank you, Chair Linehan. Thank you, sir, for your testimony. How-- what's the definition of a remote worker for the purposes of this legislation?

**JONATHAN JANK:** Remote worker, and I want to make sure that I'm-- my understanding of a remote worker is someone that is working from home, and so, yeah, my understanding is that that's-- that's not included in this bill.

**BOSTAR:** So all remote workers, even if they reside in Nebraska or another state, aren't eligible for-- to count toward LB1107. Is that correct?

**JONATHAN JANK:** Correct.

**BOSTAR:** Do you have a sense of what-- you know, let's say I work from home one day a week, but the other four days a week I'm on location at whatever business it is. Would I be considered a remote worker?

**JONATHAN JANK:** I don't know that answer. We can-- we can get that information for you.

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

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

**BRIESE:** Thank you, Chairwoman Linehan. And thank you for your testimony. In the-- I-- I think we've heard what the issue is. In the big picture, what's-- what's the extent of the issue? How many employees are we talking about overall? What-- what percent of employees and potential employees are nonresidents?

**JONATHAN JANK:** I don't have a-- I don't have a total amount of all, you know, companies in Nebraska that-- that pull from out of state.

**BRIESE:** OK.

**JONATHAN JANK:** Practically speaking, I think you just heard that approximately 10 percent from-- from one of the companies

**BRIESE:** At least with a border company.



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**JONATHAN JANK:** I mean, my assumption, that it'd be-- it'd be probably pretty similar to that for others. But again, we can get information back to you if that'd be helpful.

**BRIESE:** You're suggesting statewide, the companies that apply for and are eligible-- otherwise eligible for the Imagine Act, it would be 10 percent as well?

**JONATHAN JANK:** Yeah, and I'd have to--

**BRIESE:** OK.

**JONATHAN JANK:** I don't have that information.

**BRIESE:** OK. Thank you.

**LINEHAN:** Thank you, Senator Briese. Other questions from the committee? Mr. Jank, you can-- any questions, you're welcome to provide information. That's-- OK.

**JONATHAN JANK:** Sounds great.

**LINEHAN:** OK, thank you very much.

**JONATHAN JANK:** Thank you.

**LINEHAN:** Any other proponents? Are there other proponents? Good morning.

**DAN MAUK:** Good morning. My name is Dan Mauk. The name is spelled D-a-n M-a-u-k. Chairperson Linehan and the members of the committee, I'm testifying on behalf of the Nebraska City Area Economic Development Corporation, as well as the Nebraska Economic Development-- Developers Association. I'm testifying in support of LB18. Nebraska City is right next to the river. We're a good deal smaller than-- than Omaha, but we deal with the same workforce issues. Our county has a population of about 14,000. About half of those live in Nebraska City, roughly 7,200. Each day, almost 3,000 people drive into the county from surrounding counties to work. The flooding event of 2019 underscored how many of those came across the river from Iowa or couldn't come across the river for Iowa-- from Iowa because the bridges were all out. For six months, our local large employers housed their workers in

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every available motel or hotel room, the RV parks, anywhere they could, provided them with food and travel assistance, just in-- underscored that our economy is not defined by a county border or a state border. It's difficult in small communities, and many of you represent rural Nebraska. It's difficult to compete. Resources are thinner and the-- today companies can choose wherever they want to locate, but they need workforces primarily. They need housing. They need all those-- those com-- piece-- pieces. For us, I've been in Nebraska City for five years. We can't compete for large deals if-- unless we can show that we have employees that are available. If we have to say that only half of your people count on Imagine Nebraska for those incentives, we're kind of diluting the ability to do that recruiting. Nothing really big in-- has happened in Nebraska City for a long time. I'm trying to make that-- that change. It's just kind of my swan song. I'm-- I'm-- probably my last gig besides handing out carts at the local Walmart. But I think it's possible. We're seeing some good opportunities, but we need to be able to compete with other states, and that's one of the reasons the Legislature passed Imagine Nebraska Act. And I think this change to include the jobs, whether they're in-- across the river in Hamburg or they're in Plattsmouth, should count the same because we need those workers. Those workers will earn their money. The investment will be in our county or in our city. The tax-- employee taxes will still come to the local taxing bodies, so it would be our-- our feeling that this would be a big improvement to tweak the-- the bill in that way. I'd be available for any questions you have.

**LINEHAN:** Thank you very much. Are there questions from the committee? Thank you for being here today. Nebraska City, I believe, is a gorgeous community and you have a lot going for you there. You have the [INAUDIBLE] I mean--

**DAN MAUK:** It is a great community. When I was looking for work, my-- my youngest children are in Omaha and our newest grandchildren are in Omaha, so I was looking to get close to them and work near them. And somebody said, take a look at Nebraska City. I said, it's too small, they don't have any resources. But when I came down and took a look, I said, ah, this is where we belong.

**LINEHAN:** Why do you think people choose to live like in Iowa? If you'd said-- I mean, I don't know how many people were in hotels and

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couldn't get across the river. Why do you think they choose to live in Iowa instead of Nebraska if they're working in Nebraska?

**DAN MAUK:** Housing--

**LINEHAN:** Housing?

**DAN MAUK:** --and we're-- we're working hard on that. For-- within two years-- I've been there five years. Within the next two years, we'll have constructed 100 housing units.

**LINEHAN:** Is there that much housing in Hamburg?

**DAN MAUK:** No.

**LINEHAN:** Is Hamburg at a--

**DAN MAUK:** It-- it's--

**LINEHAN:** [INAUDIBLE]

**DAN MAUK:** It's difficult there and, you know, when you get really small, you just don't have any resources left. It's really difficult. And we hate to be where there's winners and losers, but we want to be on the winning side, so we're being aggressive. Childcare, I testified to this committee a few weeks ago about childcare. They all go together. You've got to have the job, you've got to have the place for the people to live, and a place for their kids to be taken care of and--

**LINDSTROM:** OK, thank you very much.

**DAN MAUK:** --work [INAUDIBLE]

**LINEHAN:** Are there other questions for the committee? Seeing none, thank you very much for being here, appreciate it.

**DAN MAUK:** Thank you.

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

**JIM SCHEER:** Good morning.

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**LINEHAN:** You look familiar.

**JIM SCHEER:** Madam Chairwoman and members of the Revenue Committee, nice to be back down. There were-- are a few things probably that will get me to--

**LINEHAN:** Even though we all know who you are--

**JIM SCHEER:** Oh, I'm sorry.

**LINEHAN:** That's OK.

**JIM SCHEER:** My name is Jim Scheer, J-i-m S-c-h-e-e-r, from Norfolk, representing myself. There are very few things that are going to get me out of Norfolk and drive down 81 to Lincoln, but this is one of them. Just to correct some of what has been said this morning, the legislative intent was clear on this bill. That was not a mistake, including that those people that will count towards incentive have to be residents of the state of Nebraska. And although the things that have been said this morning, I'm sure, are all factual and true, we have to take a step back to look at the incentive program. When incentive programs are introduced and when they are encouraged by the same people that were just up here wanting these changes, how they justify an incentive package is by the turn of the payroll. The state doesn't make any money back, per se, on the income tax at 6 percent. You put out a lot more money. And by the way, another factual point is it's not the state's money. It's our money. It comes from the individual residents of the state of Nebraska. If those employees are counted that live outside the state of Nebraska, I beg to differ with those folks that just stood up here, they don't pay Nebraska sales tax. They drive back home. They're buying their groceries, their clothes, and the commodities in another state. How does that help Nebraska? How does that help our treasury? How does that reimburse the state for the incentive dollars that they are giving that company? It doesn't. And those same economic development people will tell you that you're going to turn those dollars six to eight times, and that's why it's beneficial. You're getting a zero turn on that income. We have to be good stewards of Nebraska dollars, and I think that means you have to look at the return. And it might be minimal if people at least are residents of the state in Nebraska. Now it may be tough to find an individual, to find a isolated spot. That bill doesn't say you can't

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hire him or her. It just simply states that you can't count it towards the number of employees to meet that goal of an incentive. You know, however you want, but it's a Nebraska incentive act. The whole point was to make Nebraska grow, not Kansas, not Iowa, not South Dakota, not Wyoming, not Colorado, Nebraska. And I guess if we are having a hard time getting people to live in Nebraska but they want to work in Nebraska, then let's look in the mirror. I think, Madam Chairman, your point was well made. Why are people living in other states and coming across and working here? We pay good wages. Our tax is too high. Why do we have a lot of the Offutt people that, when they're done working at Offutt, still live in Council Bluffs or that area and come over to Omaha to work. It's because of taxes. Now I don't know if the incentive program-- my time is going to be short, so I'll-- hopefully somebody can ask me a question, so I'll-- I'll just sort of stand down at this point.

**LINEHAN:** Thank you, Senator Scheer. Is-- yes. Senator Flood.

**FLOOD:** Mr. Speaker, nice to see you.

**JIM SCHEER:** Nice to see you.

**FLOOD:** Would you like to continue?

**JIM SCHEER:** Thank you. I didn't have much left to say, but we-- we have to think about what it is that it's going to take to make Nebraska grow. The whole point of the incentive act is to increase the population of Nebraska. The whole theory was if we get 10 percent or 20 percent increase in population, our costs of the infrastructure doesn't go up 20 percent, so all of our tax levels should go down. If they live in another state, that'll never happen. You have to have them be residents of the state of Nebraska in order to get the turn on those dollars. I noticed, if you will check the records, one of the individuals even said, well, they're going to pay property taxes, talking about the employees. No, they're not. You don't pay property tax if you live in another state. They're going to pay income tax. Those employees don't pay unemployment tax; the employer does. So the only thing the state is gaining when they hire somebody from outside of the state is the 6.8 percent income tax. And I might add, I think maybe that's part of the problem in and of itself. They may very well live and work in Nebraska if we had lower taxes. Maybe we made a grave

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error last year by expanding the incentive act rather than decreasing our regular income tax for both individuals and businesses to try to entice people to come and stay here. You know, look at California. They've got an exodus going on right now, some of which are ending up in South Dakota. South Dakota doesn't have beaches. It's got the Black Hills, but that's not really mountains. And it's just as cold, if not colder, than it is in Nebraska. Why are they going to South Dakota? I think you get the picture. This-- this was not a mistake. This was discussed several occasions. If you will check the record of the discussion on the floor debate, it was-- I brought it up. It was specific, exactly for the purpose that we've just expressed. There was no ambiguity. Some businesses contacted me last year during that time period to discuss it. At first they thought, well, they couldn't hire somebody if they weren't a resident. No, we can't tell-- you can hire whoever you want. But if Nebraskans are going to pay dollars to companies as a-- when they come to Nebraska and provide infrastructure and businesses and employment, the only way the state can come out anywhere close is for that dollars to be able to be rolled a number of times to justify the expense to the taxpayers of the state of Nebraska. It's that easy. So it's-- and it-- it's so complicated. Really? You're either a resident or not. It-- it-- believe me, you know, we've got computer programs that are much more complicated than that, so that-- I fail to see that as a problem. And I-- I understand Endicott's problem. They're close to the border. But perhaps, you know, if they can't find others, then you can't. There's always downsides to everything. But I don't think you start incentivizing others of our neighbor states with Nebraska dollars because that's what you're doing. The Nebraska dollars that are paid to those companies are in Nebraska individuals' income taxes and companies' income taxes. I'll shut up now. Thank you.

**LINEHAN:** Thank you, Speaker Scheer. Senator Friesen.

**FRIESEN:** Thank you, Chairwoman Linehan. Welcome back, Mr. Speaker. Over the years, I've always heard, when we talk about economic development incentives, that we're going to grow the state and we're going to grow our way to tax relief. So when you look at the incentive program and you talk about we're-- you know, we are attracting jobs. But when they don't live here and-- and you-- I think you hit the nail on the head. We collect their payroll taxes, but Nebraska doesn't even get those, do they?

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**JIM SCHEER:** No.

**FRIESEN:** The company gets to keep those. So during the life of incentive program, basically, Nebraska, if they're living out of state, would you say they get zero out of this?

**JIM SCHEER:** Well, I-- I'm-- I'm not going to speak to that because I-- I don't know the affirmative acts. But I will say you that the state by no means is made whole on that transaction. And I think that is the problem. And I think-- you know, when we had this bill last year, and by the way, talk about legislative intent, I mean, just for the record, it was my bill and I was clear on the legislative intent. So for others to say there was, you know, some miscommunication, whatever, the-- I was crystal clear. That is in the record, exactly why that is there. Having said that, I think we need to be cognizant of how we utilize state dollars, and we have to expect some type of return for those dollars that are being expended. So if-- if there are complications why we can't get people to reside in Nebraska, only work in Nebraska, then I think you need to address those. But you don't throw out the water simply because of some small part. I mean, every-- every program will have misgivings. There's not a perfect bill. There's not a perfect program, but I think if we're all going to be honest, last spring, when I introduced this bill as an incentive package, I got a lot of call-- I shouldn't say that. I got calls that-- from not businesspeople, regular people, and they were torqued: Why are we spending money on businesses? They make enough money. We shouldn't have to help support them. Now I support business growth. But if the average consumer resident in Nebraska knew we were giving money away to businesses for employees that didn't even reside in the state of Nebraska, I think you would have a lot of upset people. This may never even make the news. It may be one of those deals you run it out of committee and if it gets passed, maybe is ever even reported on. Somebody has the ability to have it reported on, but, you know, that's neither here nor there. So I think you-- we have to be cognizant of what-- what as a state direction we're doing. I think we need to encourage growth in the state of Nebraska, without question. But it's got to be growth in Nebraska, not outside of Nebraska, and that's what we're really talking about. Hamburg's a really great place, but it's not in Nebraska.

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**FRIESEN:** So when we-- when-- I remember when where you were on Performance Audit with me and when we looked at the Advantage Act and some of the other programs out there. The return on investment wasn't very good and-- and we realized that. But again, when you take the person, on top of trying to create a job and be revenue neutral even, and then you have a person live out of state, it's got to make those numbers look even worse when you do that, because I'm assuming they looked at the jobs that were-- that were in the state and they lived here. And so I-- I guess I-- when I look at that, you remember when we talked, there were the tax expenditure report, there were probably some companies with a negative effective tax rate.

**JIM SCHEER:** Um-hum.

**FRIESEN:** You talk a little bit more about how that could happen?

**JIM SCHEER:** Well, I-- I think you've-- you've explained that, the fact that we don't get a return and you actually lose the money because it goes outside or the business maintains the dollars. I-- I just-- I'm very passionate about this, as you may tell, because I've not been down here since and I probably will not be back again, but we need to encourage investment. The one thing, though, that has been said that I would-- I would question in relationship to numbers, I don't believe there's any way in the world that 10 percent of the employees under the Invest-- incentive act or LB775 or any of the others were outside residents. I just-- I-- that one, I would have-- I mean, I think that was off the top of the head and that's fine, but I would question that 10 percent of the employees of all the packages put together across the state of Nebraska is going to residents. I-- there's a small percent, I'll give you that. But I think that can be reworked. And I don't care what you come up with, you're always going to have somebody that doesn't fit in that pick.

**FRIESEN:** And I-- I remember the discussions well. It was very clear why this is in the bill. So thank you, Mr. Speaker.

**LINEHAN:** Thank you, Senator Friesen. Senator Lindstrom and then Senator Bostar.

**LINDSTROM:** Oh, thank-- thank you, Chairwoman Linehan.



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**LINEHAN:** I saw your hand first.

**LINDSTROM:** Good to see you, Mr. Speaker.

**JIM SCHEER:** Morning

**LINDSTROM:** If I remember, and a year seems like a long time ago on this issue. But if I recall, we made some concessions or did some things with regards to a single company, Fiserv. Is there-- and I-- and I heard that testimony, too, with regards to the 10 percent, I think the comment related more to the border bleed, if I heard correctly. I might have misspoke. But any-- any context you could give the committee on that distinction between maybe LB18 versus what we did with regards to, say, Fiserv or some of those other companies?

**JIM SCHEER:** Well, if we're going to use the-- the Fiserv portion, in particular, what we were doing, attempting to do, and I think by and large were successful, is maintaining an employment base of 5,000 or 6,000 people in the state of Nebraska. Where they're at is immaterial, but they're residents of the state of Nebraska. Now could some of those have been residents of Council Bluffs? Maybe, but the only ones that are counting are the ones from Nebraska. I don't think there's a complaint at all on their part. Um, you know, it's a competitive world out there. And, you know, some people don't like incentives. OK, but where would we be if 6,000 gainfully employed people, residents of the state of Nebraska, all of a sudden lost their job overnight because they could go across to Des Moines or to Kansas City or someplace else and open up shop? You know, everything that was in that bill was done for a purpose, and I will-- I will say I think Senator Kolterman did an outstanding job of trying to facilitate everybody's needs and putting that part of the package together. You know, that was one of those bills where a lot of people, you know, you-- we all held hands and a lot of us had to hold our nose. But all the parts of that bill are now successful and are in place and they served a purpose, and that certainly served a purpose. That saved the state of Nebraska what could have been a devastating blow economically by losing thousands, literally thousands of jobs. So I think those dollars, you know, again, over a period of time, are going to be well spent because the state will recoup at least a greater portion of that, because those people live in the state. In Nebraska, they're paying property taxes to help offset the schools. They're paying sales tax. They're paying

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income tax. That doesn't happen if you're not a resident of the state of Nebraska.

**LINDSTROM:** Thank you, Mr. Speak-- Speaker. And we'd welcome you to visit anytime.

**JIM SCHEER:** Well, thank you.

**LINDSTROM:** Thanks.

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

**BOSTAR:** Thank you, Chairman Linehan. Thank you, Senator.

**JIM SCHEER:** It's just Jim.

**BOSTAR:** So I think your-- your point about people living in other places and working in Nebraska because of taxes, I think that's well taken. I just want to point out, though, that the previous testifier listed jobs, childcare, and housing as the reason that-- that he felt that people would choose to live somewhere else and work here. And I would add to that list as well, and I just kind of want to put that out there. But my real question for you is, you know, I wasn't here when LB1107 was put together. But for those of us on the outside that were watching, it was often described as a grand compromise, implying that individuals and parties had to give and take in order to arrive at something that was at least acceptable to the majority. Can you-- can you speak to the level of importance that this question, that this provision has within the greater context of the compromise that was created? You know, would-- would a deal have been reached if this looked different? Would something else be changed? How important was this provision?

**JIM SCHEER:** OK, certainly. To your first point, I think all of us could come up with reasons why people perhaps don't live in Nebraska. I did serve on this committee, as well, Senator. And so for the period of time that I was serving with most of the staff that's here and some of the members that are still members of this committee, we heard a significant amount of times it might be childcare, it might be other things, but predominantly it was taxes. The people that came up and testified during that time period, the overwhelming number, those are all accentuating points. By and large, it was taxes. And when you look

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at my comment about, for example, Offutt folks moving across, those folks don't have children. It's not childcare. It was taxes. Ask any of them. We-- you know, I remember hearing that time after time when we were looking at trying to reduce some of the impact of their retirement benefits from the armed services and them choosing to move across the-- the river simply for those purposes. As an aside, to answer your question, and thank you for posing it, in my expectation, and you're asking for my opinion so that's what I'm going to give you, that bill will not have passed if it hadn't been for that, because you have to remember, as your-- your term goes and as we all know, it's all a game of numbers. And I-- I can assure you, there were 17-- over 17 senators that would not have supported that bill without that being in there.

**BOSTAR:** That's valuable information. Thank you.

**JIM SCHEER:** You bet.

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

**PAHLS:** Thank you, Chair, Senator. You know, since my entire life being spent down here, it's always been about incentives, I understand, because they would say, well, another state has and if you don't have it, etcetera, etcetera. So I've heard you say that you really are not a person for incentives, necessarily. You were for tax reduction.

**JIM SCHEER:** I-- I view that the incentive package as a way to grow the state by growing the state-- simplistically, if you get 10 percent more people, we don't need 10 percent more police or teachers or corrections or any of those things that go along with it. We aren't going to have 10 percent more miles of roads. So there should be all those additional dollars from additional residents that are either paying via sales tax or income tax-- that's where the state makes our money-- that would help offset it so that we would all, if nothing else, not pay more, but hopefully be paying less over time as more people were paying into that pot.

**PAHLS:** What was it? Because I-- again, I was not here when this bill was developed, but there was property tax? Wasn't there-- that part of the agreement?

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**JIM SCHEER:** Yes.

**PAHLS:** Well, then what I find ironic on the property tax, which I-- I understand it needs to go down, but Bill Gates owns 20,000 acres and he doesn't live in the state of Nebraska. So he's going to get that break. How many people do we know, large corporations or individuals who own chunks of Nebraska? That money does not stay here, the prop-- the-- you know, if they gain in property tax.

**JIM SCHEER:** Well, Senator, you're correct, and there's faults to every program. You-- you-- I mean, let's face it, you've got a Walmart in-- you probably had 50 Walmart stores in the state of Nebraska. I'm going to venture to say that not much of those dollars stay in the state of Nebraska, but they all could qualify for incentive act at some point in time. I don't think they qualify under the-- the current system, but they could have. Their operational base in North Platte certainly did. And those dollars don't stay in the state of Nebraska either. So some of the companies that we are incentivizing, for example, as we just talked about Firstier [SIC] there-- or Fiserv, they're-- they're not domiciled in Nebraska, but their jobs are in Nebraska. And the incentive, as my perspective, the incentive package is to encourage people to come and work, live, play, and stay in Nebraska. And the entity that they worked for, to me, is not as important as where the people are at, that they're receiving that incentive. If-- if you are one of those companies, and if I'm giving you \$100,000 for those ten employees and two of those employees don't reside in the state of Nebraska, it's pretty tough for the state of Nebraska to recoup those dollars to pay the next business that wants those same type of incentives if we aren't getting enough turn on those dollars. And I'm sure in your previous term down here you heard the same things because that's what the economic development people talk about, is the turn on the payroll dollars. It's not turn on volume of sales because sales don't mean anything. It's what they pay people, and the people with those dollars, what they go out and buy, either products, consumables, homes. And when they buy their homes, or even if they're in a rental home or an apartment, they're still paying property taxes, and that helps offset the cost to everybody. As my point earlier was, I don't know that-- if the incentive package is the best way to accomplish that. It's what we've been doing for the last 30 years. Is-- would it have been better if, voilà, we could blink and go back 30 years and-- and change the income tax to 4 or 5 percent for individual and

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corporate? Would we be as successful or more successful? Twenty-twenty hindsight-- don't know. We've never tried that. So, you know, maybe-- maybe that's the better package. I don't know. I'm not here anymore. You guys are the bright ones now. So whatever you come up with, I guess, is going to work, or hopefully it will.

**PAHLS:** [INAUDIBLE]

**JIM SCHEER:** But I do think we have-- I do think you have an obligation to make sure that our funds are being used appropriately. And I don't think, in my personal opinion, giving those for employees that don't provide any additional turn by those salaries is a economic benefit for the state of Nebraska.

**PAHLS:** Well, just-- just to let you know, you can come back.

**JIM SCHEER:** OK, thank you.

**LINEHAN:** Thank you, Senator--

**JIM SCHEER:** Although, I'm going to tell you, I'm pretty sure that's not going to happen, so--

**FLOOD:** I have a question

**LINEHAN:** Thank you. Yes, Senator Flood. Thank you, Senator Pahls.

**JIM SCHEER:** No, I'm not announcing I'm running against you, Mike, so you don't have to--

**FLOOD:** Would the two-lane roads that you took on your way down here be a limiting factor for your ability--

**JIM SCHEER:** Absolutely. You know, we have a wonderful four-lane highway down to Columbus. And, you know, I-- I-- I laughed when I first was down. I came-- and I can't remember-- whenever we put the additional tax on the gas to provide dollars for infrastructure. And they said, well, you know, 275 will get done. And I said, oh, geez, probably not in my lifetime. I'm beginning to wonder. So anything you folks can do in that regard, I'd certainly appreciate it. And that's, you know-- you know, we talk about limiting factors, those that were up here, limiting factors to communities. Well, infrastructure is one

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of it. And, you know, thank you, Senator, for bringing the point, as well. You know, Norfolk, we-- we could grow-- we could be 20, 30 percent in two, three, four or five years if they had a four-lane road. People don't want-- I mean, we're fortunate. We have some large businesses. They also have a lot of truck traffic. We probably aren't going to be able to grow substantially without having a better mode of transportation. They want their trucks to be able to get on the road and move. People-- for what it's worth, I-- I served on our hospital board for 15 years. I just got off of that, as well, at the end of the year, and we would recruit doctors. What caused a doctor not to come to Norfolk, one of those? Transportation, because when they were coming from someplace, they're normally coming from a larger city, so they want the amenities of larger cities, so, OK, how long is it going to take me to get to Omaha? Well, I don't know. It took us two-and-a-half hours to drive up here because we got behind three-- three cattle trucks. That's not a very welcoming sight. So, you know, there is more to what we're talking about as far as incentives and making Nebraska grow than simply focusing on do we get to count a person that doesn't reside in the state of Nebraska under the Nebraska incentive portion? We got bigger fish to fry. I got-- you-- you really do, and I think we all realize that. And it's not-- I'm not trying to minimize it, because it's important to some, but certainly not all.

**LINEHAN:** Other-- thank you, Senator Flood. Other questions from the committee? I have one, which will probably irritate some people, but are you surprised that none of the people that negotiated this bill with us last year were here this morning to testify?

**JIM SCHEER:** No.

**LINEHAN:** Well, I'm a little shocked. I mean--

**JIM SCHEER:** No, I-- I-- I mean, and I-- I will say that it was very hard work. Senator Linehan was Chair of the Revenue and worked very hard on it. Senator Briese and she both served on a smaller committee that ultimately came up with a package that was amenable to enough people that we were successful. But, Senator, your point was well made. Would we be where we are right now if we had not had that in there? And I truly believe the answer would be, no, because there were pitting interests and none of those, if-- if-- for historical purposes, whatever you want to call the grand compromise, none of

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those three bills had the legs to be successful. That's-- that's the only reason we put them together. And that's happened several times, at least over my career down here, is that you find something enough people can agree on. And even if you don't agree with some of it, you agree with most of it. And so we move forward, and that's exactly what happened. And I don't know that, you know, a month and a half into a new session, we're going to-- you know, you haven't let the system work. No one's shown anything that has impacted their businesses because they can't. They can say, well, we think it might. It hasn't impacted one bit. State of Nebraska is doing well. Of any state, from the COVID problems, I got to tell you, Nebraska is one of the shining stars nationally, is how we've handled COVID and how our economy has responded. Now other states are begging for dollars. Their coffers are empty. They can't even write an IOU, and our coffers are remaining still pretty flush and growing. And I congratulate the Governor and the current legislative and staff and the residents of the state of Nebraska, because they're the ones that stuck in there. They're the ones that put up with working at home. They're the ones that in agriculture still went out and had to feed the cattle and still had to plant the corn. We've got a great work ethic in Nebraska. And I'm-- I-- you know, I forget how old I am, but I remember being Senator Bostar's age and talking to folks my age then and why companies came to the state in Nebraska, at least up in our neck of the woods. And the reason was work ethic, because when they hired somebody, they were well-educated, they could do the job, and they did it well and they could count on them showing up to work, and that's not the case every place in the United States. We still have that. Nebraska is a great place to have a business, but it's also the great state where you ought to want to live. And if people don't want to live in Nebraska, let's find out why they don't want to live in Nebraska, instead of just saying, well, that's OK, you go ahead, stay down there, we're still going to get an incentive. You didn't solve the problem by doing that. All you're doing is just making sure that the facility in Nebraska still gets enough money. That's one way to look at things.

**LINEHAN:** Thank you. Are there any other questions? Thank you, Senator Scheer, appreciate--

**JIM SCHEER:** My pleasure.

**LINEHAN:** --Speaker Scheer.

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**JIM SCHEER:** Enjoy the-- enjoy the weekend.

**LINEHAN:** Thank you. Are there other opponents? Are there any other opponents? Is there anyone wanting to speak in the neutral position? We had no written testimony delivered this morning. Letters for the record, we had two proponents, no opponents, and no one speaking in the neutral.

**KOLTERMAN:** Thank you, Senator Linehan. It's been an interesting morning. I want to set the record straight on a couple of issues that have-- have been made. Nowhere in my testimony this morning did I indicate that this part of the bill, the part that deals with the employees, was a mistake.

**LINEHAN:** You did not.

**KOLTERMAN:** I was very clear and I understood completely last year that that was put into the bill, and I said that in my testimony. I didn't agree with it, but it wouldn't have probably passed last year-- or it might not have passed. We can't speculate on that. I don't believe there were 17 opposed to it, but that's-- that's-- that's an opinion that we don't know, we can't measure. But I will tell you this. The other mistakes we can correct. But I will tell you this, that the-- I started hearing right away. Several of the testifiers behind me are border-- they live on the border. We got Fairbury. We got Nebraska City. We have Endecott Clay Companies, we have Reinke Irrigation. And then we took-- we took a look at Omaha. What did we do for Omaha, Senator Lindstrom? We gave-- we gave an incentive for the Key Employer and Jobs Retention Act so we could maintain a larger employer. Well, they might have come, they might not have come, but we-- we tried to listen to everybody. And-- and as a result, one of those large employers decided to keep those 5,000 employees in our state. Wonderful. It worked. Why shouldn't our small towns along the borders have those same opportunities? We're talking about 10, maybe 15 percent of the population. I mean, we heard from the individual from Endicott Clay 10 percent of this population comes from Kansas. I'm sure Reinke Irrigation is not a lot different. I don't think we're talking about a lot of people. As far as living in the community, I don't disagree. It'd be nice if everybody lived here. But I got to tell you, I-- I visited with-- you know, obviously, you know, my daughter is pretty involved in politics or likes to be involved. We



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have Costco-- or Lincoln Premium Poultry up in-- up in Fremont. They came here because we do have a good work ethic, and most of their people do live in the state of Nebraska. But you know what? The CEO of that company lives in-- in Virginia and he flies in here and he spends the week and then he goes home on weekends. We count him. He also rents a place. He buys groceries. He rents a car every week. I mean, this is what we're up against. Why shouldn't we count those people? I mean, we're talking a minor part of this, but along the border-- and I'm not worried about the Costcos of the world or the Fiservs of the world. I am worried about the Reinke Irrigations in our small communities that have this challenge. That's what we're talking about here today, the small guy, and one-- one person that lives in Iowa could make a difference in Nebraska City and qualify that company for incentives that in turn are going to create ten jobs instead of nine. So why should we penalize a small guy? And by the way, we do-- we did give that break to the large company. They don't have to count everybody. That was-- that was an amendment that was put into the bill, and so we are-- we are counting everybody that even lives in Iowa under that portion of the bill. So as we go forward, I think that we need to understand this isn't just about-- this is about growing jobs. It's not about bringing people to live here. Most of them are going to live here. I-- I've never disagreed with that. But I will tell you again, on large comprehensive bills like this, there's going to be mistakes made and we've discovered some of those mistakes. One of the mistakes was, as Senator Brandt brought you LB5-- LB524. I signed onto that bill because I saw that was a mistake as well. The reality is we're not hurting Omaha with this provision. They have a large population base that they can fill the positions with. But by continuing having this residence provision in the statute, we're hurting our small communities. They're the ones that I care about the most. And if you don't believe that, come and listen to what we're doing in Appropriations. So with that, I'd try and answer any questions you might have. I'm-- and, oh, by the way, while it was-- LB1107 was Speaker Scheer's bill, LB720 was my bill, and I take a lot of pride in the fact that we have a good economic development package that was rolled in with two other bills. So with that, I'd entertain any questions you might have.

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**LINEHAN:** Thank you, Senator Kolterman. Are there any questions from the committee? I think part of this, and I'm going to ask you if you would agree, it-- it hasn't been a year since we did--

**KOLTERMAN:** I get that, but, you know--

**LINEHAN:** No, I know, I know. But I'm-- the--

**KOLTERMAN:** Senator, I understand that. But--

**LINEHAN:** You're--

**KOLTERMAN:** But at the same time, what happens if in the meantime we lose two or three businesses?

**LINEHAN:** OK, but here's my-- that was my opening, not my question.

**KOLTERMAN:** OK.

**LINEHAN:** There's a lot of still raw emotion from-- right?

**KOLTERMAN:** There wasn't on my part until this morning.

**LINEHAN:** Oh, OK. All right. All right. Any other questions?

**PAHLS:** Could I make a statement?

**LINEHAN:** Sure.

**PAHLS:** Thank you, Chair. Just to give you an idea, I was born about 20 miles or 30 miles below the Nebraska line. As a kid, I could not believe the number of people said that-- that they had jobs in Nebraska. My first job was in Seneca, Kansas, and the number of people who came-- went across the line, that was a long time ago, so I do know that there are people going back and forth. I'm-- I'm-- I just know that for a fact because I lived it. I mean, I didn't understand, because they were looking for jobs, but-- so there is some truth to what you're saying.

**KOLTERMAN:** One or two people-- one or two people could make a difference in these small communities toward-- counting towards whether or not they get the benefit or don't get the benefit. That's the whole point behind this. That's why we had somebody from Nebraska

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City. I could've had somebody here from Deshler, I could have filled the room with people from economic developers, but I chose not to because I didn't want to take a lot of time this morning.

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

**KOLTERMAN:** Thank you.

**LINEHAN:** With that, the hearing on LB1-- LB18 draws to a close and we will open the hearing on LB184. This is a very pretty fiscal note. Good morning, Senator Bostelman. [LAUGH]

**BOSTELMAN:** All right, good morning, Chairwoman Linehan and members of the Revenue Committee. My name is Bruce Bostelman. I spell that B-r-u-c-e B-o-s-t-e-l-m-a-n, and I represent Legislative District 23. I'm here today to introduce LB84, which amends the Imagine Nebraska Act by adding nuclear energy and the North American Industry Classification System code for nuclear energy to the list of renewable energy firms eligible for a tax incentive under the act. I am-- I am bringing this bill to prepare our state for new advanced nuclear energy technology currently in development across the globe. Including nuclear energy to the act will increase our competitive advantage in the event companies look to expand into Nebraska. These new advanced nuclear technologies include, for example, small modular reactors, or SMRs, microreactors and large-scale molten salt reactors. Some new designs are capable-- capable of producing smaller amounts of energy than that of a large-scale nuclear power plant, with SMRs capable of producing 20 to 300 megawatts of energy and microreactors capable of producing 1 to 20 megawatts of energy. Large-scale-- large-scale, next-generation, reactors such as Sodium, can produce more than 345 megawatts. One of the most promising aspects of these new innovations are the improved safety measures. One of the handouts you have is the SMRs are on the top, you can see, and the micros are on the bottom and you can see how small or convenient-- the size of a micro is much smaller than-- than what you would think a power plant would be. SMR react-- and microreactors and new large-scale reactors are capable of being turned on or off whenever needed, or optimized to follow load requirements, unlike a traditional large-scale nuclear reactor. According to the Nuclear Energy Institute, U.S. nuclear plants are 100 times safer than regulatory safety goals. Due to the lower generating

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power and small physical footprint of SMRs and micro reactors, both of these technologies will be able to be strategically deployed in more remote and rural areas of Nebraska. Microreactors, for example, are designed to be the size of a semi-trailer. In the event that a natural disaster damages our energy infrastructure, resulting in blackouts or, more-- more recently, rolling blackout-- blackouts like we just experienced, microreactors can readily be brought online in order to supply the energy. There are various loan grants and tax credits available for advanced nuclear, including an 18-megawatt hour production tax credit, grants up to \$400 million, and DOE loan guarantees up to \$2 billion. With regards to employees, SMR plants employ anywhere from 40 to 200 individuals, and microreactors can employ anywhere from 3 to 10 employees. As the energy industry becomes more reliant on renewable energy, and given the current administration's commitment to all carbon-free sources of energy, it will be prudent to incentivize carbon-free nuclear energy in Nebraska. According to NCSL, nuclear energy generates an essential share of the nation's clean, zero-carbon-emitting, reliable and sustainable source of energy. Perhaps you watched the recent 60 Minutes program with Bill Gates and his design of advanced nuclear technology. His company designed a unique reactor that is highly energy efficient. This is the type of advanced technology that I'm talking about. So why is this bill important? There are companies currently looking for demonstration locations and Nebraska needs to be considered. Several other states either have or currently include microreactors and SMRs in their incentive programs to help attract companies, advanced reactor developers like TerraPower LLC and GE Hitachi Nuclear Energy, X-energy LLC, NuScale Power LLC, Oklo Inc., Kairos Power LLC, Terrestrial Energy Inc., Holtec International, and more-- great jobs, high-paying jobs, clean, carbon-free energy. I asked for your support of LB84 and its advancement to General File, and I'll answer any questions you may have.

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

**FLOOD:** Thank you, Chair Linehan. Thank you, Senator Bostelman, for bringing the bill. It's a refreshing change in Revenue to talk about something like this. How-- how much water flow do you need? And the reason I'm asking, I'm looking at your small modular reactor plant. Does the Elkhorn have enough water in it to have anything like this remotely near it?

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**BOSTELMAN:** So I will-- I will-- I will let my person behind me in blue-- I think she can answer that, or maybe John can answer that, but some of them are air cooled, and some of them on the water side, I'm not for sure, but she can answer the question for you.

**FLOOD:** And on these microreactors, I've not heard much about that. How big of a physical footprint is that? It looks like it--

**BOSTELMAN:** It's-- it fits on the-- on a semi-trailer. It's that-- that's the size of it. The reactor size is-- is very small.

**FLOOD:** Where does the nuclear waste go for-- for--

**BOSTELMAN:** Well, that would be-- yeah, right. So those are usually stored on site.

**FLOOD:** And what's your opinion on LNG as a--

**BOSTELMAN:** On--

**FLOOD:** I know I'm totally off of nuclear here, but, you know, I like the idea of looking at other power sources, and liquefied natural gas is something that I've-- I've been thinking for a long time we could use that to power locomotives, but that's another day. But thank you for bringing this. You know that you introduced a bill that would exceed the entire cap of the incentive act. You might beat Senator Lindstrom in terms of break-- bankrupting us with this one.

**BOSTELMAN:** Well, actually, if you look at the fiscal note--

**LINEHAN:** Yes.

**BOSTELMAN:** And I talked to Fiscal Office yesterday and I was going to-- I'm glad to talk about that. If you look at that, they're looking at 1,000 megawatt, large scale. We're talking 10 megawatts, 100 megawatts. So we're talking, you know, the cost of constructing those is less than a-- you know, that \$500-750 million, and there's \$2 billion in incentives out there. So, you know, those things are-- are available for-- for these companies coming in or as they partner with public power or other company. A couple of things, if I may?

**FLOOD:** Yeah.

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**BOSTELMAN:** On the-- on the fuel side of it, there are reactors. There's-- there's breeder reactors and there's new technology come out that actually reuse spent fuel, so the amount of-- of any fuel waste is going to be minimal at best. They can reuse that. The other thing I'd point out is let's take a comp-- let's take what happened just last week and let's use Nucor, for instance.

**FLOOD:** Yeah.

**BOSTELMAN:** I think they were shut down for about a week, maybe, or five days, whatever they were shut down that-- as far as power off-- number of days, maybe, their power off. You could take two-- two SMRs and they could install those with the public power district, or they could take a few micros and install those and that would provide all the power that they would need to continue to function. They would never shut off.

**FLOOD:** Thank you.

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

**LINDSTROM:** Thank you, Chairwoman Linehan. And thank you for bringing this bill. It's an intriguing bill. What are the restrictions with regards to, you know, the federal issues that could come? Are we able to-- how-- how long in the future could this--

**BOSTELMAN:** There-- actually, there's one being built right now in Idaho.

**LINDSTROM:** In Idaho.

**BOSTELMAN:** So-- so they're-- they're currently being constructed here in the United States and around the world.

**LINDSTROM:** OK. And I happened to notice-- I remember hearing about these years ago with Bill Gates had a-- I don't know what to call it-- a think tank. It was something years ago where I think-- I think a younger individual actually came up with some project like this. And I have noticed that Bill Gates is buying up quite a bit of land in Nebraska. Maybe we can encourage him to do a test run on--

**BOSTELMAN:** Great idea.

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**LINDSTROM:** --on his land, so just a-- food for thought.

**BOSTELMAN:** And-- and to your-- actually, to your-- you know, one-- and jest-- you know, it's a bit in jest, but really, if you think about it, if we have a reliability problem in northwest Nebraska, north-central Nebraska, northeast Nebraska, you could put one of these, whatever size you need, in that area to really meet that reliability need, so--

**LINDSTROM:** Well, it's timely with the rolling blackouts, so  
[INAUDIBLE]

**BOSTELMAN:** Sorry?

**LINDSTROM:** I said good timing on this bill with the rolling blackouts. It's--

**BOSTELMAN:** There you go.

**LINDSTROM:** --obviously a timely issue, so.

**BOSTELMAN:** Timing is everything, yeah.

**LINEHAN:** Thank you, Senator Lindstrom. Other questions? The fiscal note, in-- in seriousness, our incentive package, it's capped, right? We capped it last year. It can't go over X, so this would become part of the incentive package, so I don't see why there would be any cost because it's already capped. Right?

**BOSTELMAN:** Well, that's-- you know, that was part of frust--

**LINEHAN:** Some [INAUDIBLE]

**BOSTELMAN:** --my question--

**LINEHAN:** Yes.

**BOSTELMAN:** --on the fiscal note was we're putting this into the incentive program, so why is there the fiscal note as it is? Because it is-- you would have to apply and be granted in order to, you know, to-- to be awarded anything. And what that award would be is within that incentive program. So my other question was, when we passed

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LB1107, was every individual business that potentially could apply for this, did we have a fiscal note on that? No.

**LINEHAN:** Yes, I just wanted that on the record. Thank you for doing so. Any other questions from the committee? Seeing none, thank you very much for being here. Think I recognize one of the proponent-- well, actually, two proponents, I hope.

**JAN BOSTELMAN:** Proponent time?

**LINEHAN:** Yes, it's proponent time.

**JAN BOSTELMAN:** Chair Senator Linehan and members of the Revenue Committee, good day. My name is Jan Bostelman, J-a-n B-o-s-t-e-l-m-a-n. As a public citizen, I am here to testify in support of LB84. I am a licensed professional metallurgical engineer in Nebraska with bachelor's in chemical engineering, graduate work in nuclear and metallurgical engineering. I have over 40 years of experience in commercial nuclear power plant applications throughout the U.S. and internationally. My breadth of experience covers working in nuclear plant licensing, fuels, plant design, plant modifications, operations, and I worked at the Yucca Mountain waste storage facility. Your support of LB84 is important for many different reasons. One, it creates an incentive for promotion of advanced nuclear technology to be brought to Nebraska. Nuclear power is resilient and a reliable, firm, zero-carbon-emitting energy generation source. Two, advanced nuclear technology can be placed in remote areas in Nebraska, where needed. Three, advanced nuclear technology plants provide jobs in rural areas that pay more than 25 percent more than other power plant-type jobs. Four, as an adjunct instructor in a current college energy generation program, I have students that want to work in the nuclear field and still stay in Nebraska. Rather than having these students, when they graduate, leave the state, providing incentives for advanced nuclear fuel to be built in the state will retain these future workers. The fuel used in advanced reactors potentially can be reprocessed from existing spent nuclear fuel, reducing the volume of waste, thereby being considered reusable fuel. Six, with the in situ uranium mining operations in northwest Nebraska, we could potentially couple utilization of that natural resource, along with new advanced nuclear technology brought to the state through the tax incentives. Seven, promotion of new advanced nuclear can support critical



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infrastructures in this state, including the mining operation of NioCorp in southeast Nebraska. Eight, new advanced nuclear technology can be built on existing retired fossil unit sites and take up a small footprint, i.e., 35 acres or less. And nine, the revenue generated from skilled workers' incomes far exceeds any tax incentive provided, a revenue gain. Any nuclear to the Imagine tax incentive act would allow for advanced technology like SMRs, which can be brought online as nearly-- as early as 2027, to become economic engines in this state. With a typical 600 megawatt SMR, it would employ 900 manufacturing/construction jobs for four years. At the site in operation, 300 permanent positions would be in place for 60 or more years. For every 100 permanent positions created, an additional 66 jobs are created in the local economy. They can provide up to \$500 million in direct and indirect economic output annually. Installation of advanced nuclear provides for fuel diversity, as well, which means not requiring excessive capacity margin for energy generation or energy storage systems. Advanced nuclear technology-- technology is flexible, dispatchable generation. It can operate up to two years without shutting down. It has capacity factors that are 95 percent or more. Advanced nuclear plants can operate independent of a grid, which we saw that was critical and could provide continuous power. Microreactor technology can be made available from 2025 to 2026 and be deployed rapidly, and microreactors can actually operate up to ten years in length of time. So with that, I just wanted to point out with modular, we minimize cost, and advanced nuclear designs are capable of [INAUDIBLE] and also, based on these reasons, I ask for your support of LB84, and I can answer any questions. Cost, technical, whatever you want to throw at me, I'll-- I'll-- hopefully I can answer that. With that--

**LINEHAN:** Thank you--

**JAN BOSTELMAN:** --thank you.

**LINEHAN:** --Ms. Bostelman. Are there questions from the committee? Yes, I saw you both at the same time, so you choose. Senator Flood.

**FLOOD:** Thank you very much for your testimony. On my question about the Elkhorn, what kind of water flow is necessary for one of these small modular reactor plants?

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**JAN BOSTELMAN:** OK, so a small modular reactors would be like a new scale. They could either be air cooled. That's what they're being proposed up in the Utah/Idaho area, so you wouldn't need the use utilization of a river source. Or if you want to have water cooled, we would be using cooling towers, so as far as the-- the amount of water would be very minimal because we're just going to be recycling with a cooling tower application. So it'd be mostly just maybe a small makeup, if that.

**FLOOD:** And how many megawatts would a small reactor or a small modular reactor put out?

**JAN BOSTELMAN:** A modular reactor, they go from the range of 20 megawatts to-- to 300 megawatts. The new-scale application, like the one up on the Utah-Idaho border, they're going to take 12 individual modules, stack them together, so they're going to have an output of about 924 megawatts, so each reactor can put out 77 megawatts and then they're going to have 12 of them stacked up.

**FLOOD:** And what's the life span of one of those facilities?

**JAN BOSTELMAN:** Sixty to 80 years.

**FLOOD:** And on the small-- the microreactor, 10 megawatts is what you're thinking there?

**JAN BOSTELMAN:** Yes.

**FLOOD:** And what's the cost of something like that if you were to put one of those microreactors in?

**JAN BOSTELMAN:** I do have-- I don't want to get-- you know, because they have some sensitivity on cost. I do have a document for the actual cost competitiveness of microreactors. When I was looking through their graphs a little bit earlier, you're talking about maybe if you had ten of them put in, maybe about \$500 million. That's-- that's a high-number estimate. It can even go lower than that. But I do have that information, if you would like to have that.

**FLOOD:** Sure. And then with the microreactor, how many people-- what kind of security do you have to have for that?

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**JAN BOSTELMAN:** I can't answer that one. In fact, I had-- I had asked the companies about this, and they-- we-- we're not going to tell you and divulge that information.

**FLOOD:** But it would be a secured--

**JAN BOSTELMAN:** Oh, yes, all of-- anything-- anything we do in nuclear is security, yes.

**FLOOD:** Yeah. And then you worked at the Yucca Mountain?

**JAN BOSTELMAN:** Yes.

**FLOOD:** Just for my benefit, Nebraska denied the low-level radioactive waste permit in the late '80s. Where-- does all the nuclear waste go to the Yucca Mountain?

**JAN BOSTELMAN:** Yucca Mountain was only being planned and built for high-level radioactive waste. The low-level radioactive waste currently is-- there's a couple of facilities throughout the U.S. that can still take the low-level radioactive waste.

**FLOOD:** Is there a market for that?

**JAN BOSTELMAN:** For taking it?

**FLOOD:** Yeah.

**JAN BOSTELMAN:** It depends on who you talk to, like on the high-level radioactive waste side-- side, since the government has shut down the Yucca Mountain further for development, there are actually Indian reservations in Utah that are looking at taking, say, the high level because they can see the-- the benefit for economics for them for-- to doing something--

**FLOOD:** And how jobs would that create?

**JAN BOSTELMAN:** Oh, boy, I'm trying to think. You're talking maybe up to a thousand folks at a high-level facility. There's a lot of people it takes.

**FLOOD:** And those would be what kind of jobs?

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**JAN BOSTELMAN:** Very high skilled as far as being able to handle these types of-- and-- and you're going to have to also have health physics people involved to monitor all the time. You're going to have to have geological folks, monitoring folks, as far as environmental ones, so it's-- yeah, I can't quote you, you know, like, you know, salaries, but it is going to be high skilled.

**FLOOD:** And if-- if that were permitted, what would the risk be to the general public?

**JAN BOSTELMAN:** I don't know. I'd have to-- I'd have to research that because I need to look at what we did on Yucca Mountain, yeah.

**FLOOD:** But would it be safe to say it's fairly minimal?

**JAN BOSTELMAN:** Oh, yes. Oh, yes. Yeah, yeah. And we-- when-- when I worked at Yucca Mountain, our models were looking at things out in the ten thousands of years and up to a million years how we were doing our modeling as far as environmental impacts and such. So it was very robust, so, yeah, it was very, very, extremely, extremely minimal.

**FLOOD:** Thank you.

**JAN BOSTELMAN:** Yeah.

**FLOOD:** Would-- oh, last question. Sorry. Would people move to rural Nebraska if something were located there for these jobs, for these kinds of jobs?

**JAN BOSTELMAN:** Well, we do see that, I think, currently with some of these renewables. And like I said, I have students right now in my classes-- I have ten students at Southeast Community College, and they all want to still stay living in Nebraska. And they want-- and that was-- that's the current class and it's averaging about that many students that want to still stay in this program, ten students per semester. You know, they-- they go on a rotating schedule when they do their graduation, so, yes.

**LINEHAN:** Thank you. Senator Briese.

**BRIESE:** I'm good. Thank you.

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**LINEHAN:** Oh, OK.

**JAN BOSTELMAN:** OK.

**LINEHAN:** All right, any other questions?

**JAN BOSTELMAN:** Anybody else?

**LINEHAN:** I'm sorry. Thank you very much for being here. Are there other proponents? Good morning.

**JOHN McCLURE:** Good morning, Madam Chairman and members of the Revenue Committee. My name is John, J-o-h-n, McClure, M-c-C-l-u-r-e. I'm executive vice president of external affairs and general counsel for Nebraska Public Power District, and I'm here today in support of LB84. I want to thank Senator Bostelman for his strong support for nuclear energy. This bill helped start an important discussion about the future role of nuclear energy in our state. We believe additional conversation about how this would work under other state statutes pertaining to the electric industry may be necessary and look forward to continuing to work with Senator Bostelman on this issue. Nuclear power provides 20 percent of our nation's electricity and approximately 55 percent of all the carbon-free electricity. Bill Gates, who was mentioned earlier, who is legendary as a technologist, a business leader and a philanthropist, released a book this month in which he proposes a variety of solutions to address climate change. He makes the following statement regarding nuclear power, and I quote: It's the only carbon-free energy source that can reliably deliver power day and night, through every season, almost anywhere on Earth that has been proven to work on a large scale, end of quote. He is absolutely correct in his assessment of the benefits of nuclear power. There are several companies working on these advanced reactors, and you've heard that from Senator Bostelman and his wife. These include a company known as TerraPower, which was earlier mentioned. The company is pursuing fundamental technology advancements in producing electricity with nuclear energy, and there are a number of opportunities to make what we have today that's-- that's good, very good, and make it even better with some of these new technologies. TerraPower is working with proven nuclear technology leader GE Hitachi on the Sodium reactor project, which was also mentioned earlier. NuScale, which you also heard about, is a company developing a small

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nuc-- a small modular reactor which is smaller than today's conventional facilities but can be built modularly and added onto. A group of public power utilities in Utah are working with NuScale to build a demonstration reactor at the Idaho National Laboratory. There are approximately 20 parent utilities in the United States operating nuclear power plants. NPPD is proud to be one of them who have developed-- and we have developed, along with the rest of the industry, highly trained workforce to safely harness the power of the atom and produce reliable and affordable electricity. NPPD's Cooper Nuclear Station, located near Brownville, Nebraska, employs over 600 people who are well compensated due to their unique training, skill sets, and responsibilities. I would also note that one of NPPD's senior leaders at Cooper, Dan Buman, is on the utility advisory boards for the TerraPower and NuScale initiatives, which were previously mentioned, and he is helping, along with others from the industry, provide input on various aspects of design and licensing considerations. There are many inherent advantages for nuclear power plants. They emit no carbon dioxide, are highly reliable, and have excellent fuel security. What do I mean by fuel security? Every 24 months we conduct a maintenance and refueling outage where approximately one-third of the fuel is replaced in the reactor. The plant then can run two years with no external needs for fuel supply. During the last 24-month fuel cycle which we had, the plant ran continuously and-- and except for some very limited adjustments, was basically running at full power for 24 months. Cooper is the state's largest source of carbon-free electricity and helps Nebraska customers receive a reliable electricity mix, averaging 60 percent carbon-free energy. In closing, we're very supportive of these policies, both looking at existing and new nuclear. We appreciate Senator Bostelman's initiative and leadership with LB84, and we support advancing this bill to the full floor. I'd be happy to try to answer any questions.

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

**FLOOD:** Thank you, Chair Linehan. Mr. McClure, good to see you. What is the-- what is the lifespan of Cooper Nuclear Station?

**JOHN McCLURE:** Well, we-- we are in our 47th year of operation. We currently had-- originally we had a 40-year license. We received a 20-year extension. That's been common in the industry. Many plants

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have extended their licenses, and now plants are starting to look at the potential for another 20-year extension, which we will be evaluating in the next several years. The material condition of that station, the skill of the workforce certainly bode well for-- for the future. And in fact, SMR technology is something that we hope does develop rapidly and become an option that we could potentially add SMR technologies to the existing site because of all the infrastructure we have there, as well as the-- the skilled workforce. Not everybody can operate a nuclear plant. It takes a lot of-- a lot of dedication and work and-- and skills.

**FLOOD:** And how many megawatts do you put out?

**JOHN McCLURE:** Eight hundred megawatts.

**FLOOD:** Twenty-four hours a day?

**JOHN McCLURE:** Twenty-four hours a day. Again, if you look back over the-- the two-year period for our previous fuel cycle, we were up at 800 megawatts almost all the time. There were very limited periods where we were less than that.

**FLOOD:** And in the SPP power pool, how many nuclear facilities are there?

**JOHN McCLURE:** There are two: NPPD's Cooper Nuclear Station and the Wolf Creek Station in Kansas.

**FLOOD:** And so during the recent power outages, your nuclear reactor was-- your-- your electricity was probably fairly high valued.

**JOHN McCLURE:** Yes, it-- it-- it was. Not only our nuclear plant, but all of our plants ran very strong through the-- through the recent event, and we're going to have a chance to visit with, in that case, Chairman Bostelman and his committee next week on that topic.

**FLOOD:** One last question: If somebody were to come in and-- and take advantage of our incentives here, would NPPD work with them the same way that you work with wind companies?

**JOHN McCLURE:** And that's why I raised the question I did. It took a little bit of work to get through some of the partnerships that have

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happened with wind, and there may be some additional things, but this is an excellent start. It-- it-- and there could be-- again, we'll have to think that through. But this is an excellent start to help move that forward with very promising technology. You know, when-- when Bill Gates comes out and-- and invests the way he has in the technology, I think that's an incredibly powerful statement.

**FLOOD:** Thank you.

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

**BOSTAR:** Thank you, Chair Linehan. Thank you, sir. What's the approximate price that-- that nuclear bids into the SPP?

**JOHN McCLURE:** The SPP market is an energy and variable O&M market, so power plants, regardless of the technology, are bid in based on their fuel cost. So if you're wind, you bid in at zero, or maybe even negative, because of a-- of a production tax credit. So--

**BOSTAR:** Right. So where does nuclear generally find itself?

**JOHN McCLURE:** Nuclear fuel, after-- after renewables, nuclear fuel is the next-lowest-cost component to bid into the market.

**BOSTAR:** And the sort of next-generation nuclear reactor technology, would you imagine that that would-- in an above or below current nuclear generation?

**JOHN McCLURE:** I would believe, with-- with some maturing-- again, we're at the-- we're at the front end of this technology. One of the notes I-- I-- I jotted down is the fuel efficiency. With the-- with the project that is TerraPower and GE Hitachi, they're looking at fuel that's four times more efficient. So that would reduce the cost of the fuel even below what it is now. And again, of all the conventional technologies, nuclear fuel is the lowest fuel cost compared to coal, gas, etcetera.

**BOSTAR:** What is the-- from an interconnection standpoint, what are the opportunities for Nebraska currently to accommodate, let's say, a sizable nuclear power generation project?



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**JOHN McCLURE:** That would depend on how big and where it's being interconnected, with-- it would be difficult to generalize that and that would require engineering studies. Obviously, the smaller it is, the less the impact, I mean, theoretically. And-- and Jan Bostelman is certainly, as a nuclear engineer or a chemical engineer who understands, a whole career from nuclear experience, can answer some of these far better than I, but I was amazed on some of these microreactors. The military was actually looking at very, very small reactors that they could put in remote locations where they have bases or operations, a place like Alaska, for example, that they could put that in, and they have a very self-sustained power unit with high reliability.

**BOSTAR:** So-- so I absolutely understand that it would be challenging to-- to generalize interconnection availability across the state. But perhaps if you know, and if not that's totally understandable, but, for example, Senator Flood is very excited to build nuclear reactors in his community. And so could Norfolk interconnect with a nuclear reactor with the grid infrastructure we have today?

**JOHN McCLURE:** Again, it-- it would depend on the size, what they were putting up there, and-- and it would be-- as a lawyer, I don't think I'd give you the best answer. It requires engineering studies to look at the conditions, look at the loads, look at the transmission capacity in that vicinity, and in particular, the size of the interconnection and how is it being done. I mean, theoretically, if this technology advances, a large manufacturing facility could have it, quote unquote, behind the meter. That could be their power supply.

**BOSTAR:** Thank you very much.

**JOHN McCLURE:** Thank you.

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

**JOHN McCLURE:** Thank you.

**LINEHAN:** Are there other proponents? Are there any opponents? Is there anyone wanting to testify in the neutral position? We had two letters

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for the record, proponents, no opponents, no neutral and no testimony submitted for the record.

**BOSTELMAN:** I'll be brief, if you will. Just as a-- as a framework for what we're talking about, so when we ask how large is Cooper, 800 megawatts, that's 600-- almost 650-- 660,000 homes could be-- could be powered by that facility. If you go down to, say, 100 megawatt, that's over-- that's 83,000. If we go down to 10 megawatts, you're in that 8,000 to 9,000 homes. So as we look at businesses, that kind of gives you a little perspective as to what we're talking about on size, perhaps. The other thing is reliability, like we were talking about. If-- if-- when-- when Fort Calhoun was-- was shut down, you had a reliability issue in transmission going north and across the state. And that's one thing that's being talked now, as we know, in the state. You could take the reactors that we're talking about now in small modular micro, and you could strategically place those. And that would-- that would meet those needs of reliability that would-- it would cause growth economically in those areas. But it would provide those communities and those-- those locations throughout the state with consistent, reliable, continuous power. So with that, I think I'll take any other questions you might have.

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

**BOSTAR:** Just a quick one, thank you, Chair. Thank you, Senator. Do you think that, you know, if we put this into the incentive package, that we will-- we'll get some nuclear development out of it?

**BOSTELMAN:** There's companies looking at Nebraska right now, yes.

**BOSTAR:** Really?

**BOSTELMAN:** Yes.

**BOSTAR:** And what are they-- I mean, are they looking at the small modular stuff? Are they looking at the regular scale or what-- can you tell--

**BOSTELMAN:** Small-- smaller.

**BOSTAR:** Really? Well, that's good news. Thank you.

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**BOSTELMAN:** Yep.

**LINEHAN:** Thank you, Senator Bostar. Would you-- let's work with the Fiscal Office on the note, because I don't-- if it's part of the-- it's part of the incentive package, that's already priced into our budget, so let's see if we can't get this to go away. OK. All right. Any other questions? Thank you very much.

**BOSTELMAN:** Thank you.

**LINEHAN:** With that, we bring the hearing on LB84 to a close.

**LINEHAN:** Welcome to the Revenue Committee. My name is Lou Ann Linehan. I'm from Elkhorn. I represent Legislative District 39 and chair this committee. For the safety of our committee members, staff, pages and the 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 you-- that everyone utilize the identified entrance and exit doors to the hearing room. We request that you wear a 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 the testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which attendance reaches seating capacity or near capacity, the entrance door will be monitored by the Sergeant-at-Arms. We ask that you please eliminate or limit, at least, 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 the proposed legislation for 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 of the testimony will be introducer, proponents, opponents, neutral, and closing remarks. If you will be testifying, please complete the green form and hand it to the page when you come up to testify. If you have written materials that you would like to

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distribute to the committee, please hand them to the page to distribute. We need 12 copies of all-- for all committee members and staff. If you need additional copies, please ask the page to make copies for you. When you begin to testify, please state and spell your name for the record. Please be concise. It is my request that you limit your testimony to five minutes. We will use the light system so you'll have four minutes on green, one minute on yellow, and then if it goes red, I will ask you to stop. If there are a lot of people wishing to testify-- we don't-- we don't, I think, 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 the room by the entrance. It will be included in the official record. Please speak directly into the microphone so our transcribers are able to hear your testimony clearly. I would like 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 to my left at the end of the table is committee clerk Grant Latimer. Now I would like the members to introduce themselves, starting at my far right.

**PAHLS:** Thank you, Chair. Rich Pahls, District 31, Omaha, southwest Omaha.

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

**LINDSTROM:** Brett Lindstrom, District 18, northwest Omaha.

**FLOOD:** Mike Flood, District 19, all of Madison and part of Stanton County.

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

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

**LINEHAN:** This afternoon our pages are-- if they can stand up, thank you, Gentlemen. Our pages-- pages are Jason at UNL, who he is studying political science and history, and Reid, who's also at UNL. He's an ag-econ major. Please remember that senators may come and go during our hearing as they may have bills to introduce in other committees.

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Please 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. Finally, we are an electronics-equipped committee. Information is, therefore, provided electronically as well as in paper form. 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. With that, we will introduce LB-- or we will open the hearing on LB134. Hello, Senator Brandt.

**BRANDT:** Good afternoon, Chair 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 County. Today I'm introducing LB134, the Taxpayer Transparency Act. No matter where you stand on economic incentives, everyone should be for transparency when it comes to our tax dollars. This committee sees a fair amount of transparency legislation, like Senator Briese's LB3, Senator DeBoer's LB378. LB134 would apply the same standard to the state's tax incentive programs. Incentive deals should be transparent so that lawmakers and taxpayers-- so that lawmakers and the taxpayers they represent can hold companies accountable in exchange for the money they receive. Incentives and other economic development programs have a lot of room for improvements in regards to transparency. Despite the fact the companies qualify and claim millions of dollars per year due to incentives, little is known about them or their effectiveness, even though companies are claiming state revenue that would otherwise pay for services benefiting all taxpayers. How much they get and how it is used is largely considered confidential. The public deserves to know when and to what extent companies are exempt from paying taxes since these funds shift the cost of paying for services onto a smaller tax base. The lack of transparency surrounding these credits also hurts our ability as policymakers to enact good public policy by denying us the information we need to know: if these incentives are the best use of tax dollars. According to the 2019 Nebraska Advantage Performance Audit report, the estimated cost per new-- per new job, per year from these programs ranges from \$5,159 to \$208,559 per job created. Opponents of this bill may state that a private business's information

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should not be disclosed for proprietary reasons. However, no company is forced to take public dollars. Accepting a certain amount of transparency is a reasonable tradeoff for public money. Here is the reporting that LB134 would require, and this will be broken into six different segments, the first segment: individual company reporting every year. For example, currently under the Nebraska Imagine Act, company-specific benefits are reported on an aggregated two-year basis. This means one total for benefits received, a combination of tax credits and direct sales and use tax refunds excluding property tax abatements, is reported, one number every two years. Under LB134, it would require a yearly breakdown of credits earned and used by type and direct sales and use taxes refunded for each participating entity. LB134 would also require the amount of withholding credit used to be disclosed because the withholding provision allows companies to keep their employees' state income tax. The second element: property tax abated by company. Under the Nebraska Imagine Act, only the total property eligible for property tax exemption by type is reported. LB134 would require reporting of the actual property tax abated by location. Number three: participation in other state economic development or tax incentive programs. The Nebraska Imagine Act does not require the disclosure of participation and other state economic development or tax incentive programs. LB134 would require disclosure of participation in other state economic development or tax incentive programs. Number four: actual jobs and investment added. LB134 would require each company's new investment and job creation for which they receive tax incentives to be reported. Number five: aggregate totals of tax incentives by program and by company for all programs. The Nebraska Imagine Act only requires tax credits distributed and sales tax refunds approved for a company on a two-year basis, one number with all credits and refunds approved over a two-year period, as all taxpayers can see. They also do not require the total amount of incentives received under the program, to date, to be reported by a company, which omits significant detail. LB134 would require all benefits to be totaled each year to date by company, including total benefits by program. Plus, it would require a yearly aggregate by company of all incentive programs, giving taxpayers a much better idea of what companies are getting. Finally, number six: any recapture owed by the recipient and recapture paid. LB134 would require the posting of information about recapture and whether or not a project owes any or paid any. The fiscal note calls for one full-time tax specialist

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beginning in January 2022 and one-half auditor beginning in July 2022. It is estimated that this bill will have no impact on General Fund revenues. I believe that the Nebraska ImagiNE Act should be self-sustaining and that these expenditures should come out of the program, and I'm working on an amendment to eliminate the fiscal note. Until we become more transparent regarding corporate tax credits, it will remain difficult for us as lawmakers to determine if these programs deliver sufficient value to the state at-large and not just the rewarded companies. Our taxpayers have a right to know how these dollars are being spent. Transparency is a nonpartisan issue and garners the support of both OpenSky Policy Institute and the Platte Institute. And with that, I'd be happy to answer any questions.

**LINEHAN:** Thank you, Senator Brandt. Are there questions from the committee? Seeing none--

**BRANDT:** OK.

**LINEHAN:** --will you be here to close?

**BRANDT:** Yeah.

**LINEHAN:** OK. Thank you. First proponent. Good afternoon.

**JOHN HANSEN:** Good afternoon, Madam Chairman and members of the committee. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union. Thank you for the opportunity to appear before you today. So as I have been involved in-- in tax policy and also economic incentive programs and economic development for a very long time, certain things really come to stick out as you're involved in those public debates and discussions and going back and forth with the public, and one is that the perception of a tax load has a lot to do with the fairness of the tax load. And one of the things that sticks out in terms of economic incentives is whether or not taxpayers feel like they have some sort of way to know whether or not these things are actually cost-effective and where their money goes and whether or not somebody is keeping track of these things and whether or not they're doing what they're supposed to be doing. And so for those of us who've been in public policy any number of years, we know that there's nothing that causes suspicion, and lots of it, faster than a closed door. That is just an

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absolute, going to happen every single time you close the door. So from both, I think, a policymaker standpoint in terms of the body, but also in terms of the-- the public body itself and their willingness to support these kinds of programs, they have a fair, reasonable right to expect transparency and accountability. And so this bill is the same basic bill that we testified in favor of last year. And we think it is a good bill. We think it's a reasonable bill from a management standpoint. You know, the old saw still works, and that is that if you can't count it, you can't manage it. And so the better information you have, the more detailed information you have, you can also narrow the gap between theory and practice to make sure that the-- that the programs that are drafted, supported, and passed are working as intended, so that you have not only the accountability, but you have the ability to be able to modify them if needed so that they are, in fact, carrying out their intended purpose. And so for all of those reasons, we support LB134 and would encourage you to do likewise. And I'd be glad to answer any questions on a Friday afternoon if you had any.

**LINEHAN:** Thank you, Senator-- Mr. Hansen. Are there questions from the committee? You're here representing--

**JOHN HANSEN:** Nebraska Farmers Union.

**LINEHAN:** OK. Thank you. Seeing no questions, thank you for your testimony.

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

**LINEHAN:** Uh-huh. Other proponents?

**CRAIG BECK:** Good afternoon, Chairperson Linehan, members of the Revenue Committee. For the record, my name is Craig Beck, C-r-a-i-g B-e-c-k, and I'm the fiscal analyst at OpenSky Policy Institute, testifying today in support of LB134 because we support increased transparency in the state's incentive programs to ensure they are accomplishing the state's goals. Each year, Nebraska gives out hundreds of millions of dollars in business subsidies, and taxpayers deserve to know how the-- how those dollars are being utilized. LB134 would be a step in the right direction by bringing more transparency into tax incentive policy while also helping the Legislature collect



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yearly data on key metrics. Currently, a gap exists between the information provided about state tax incentives and other state appropriations. Nebraskans have come to expect transparency and accountability from government, and more information is available about the state's General Fund appropriations compared to its tax incentives. For example, there are ample sources of public information outlining how the Legislature appropriates the state's General Fund, and taxpayers can review how money is allocated among state agencies for operations, construction, and government aid. Taxpayers can also see state agency outlays in detail by reviewing reports published by State Accounting, including the annual budgetary report and monthly fund summary reports. This level of detail is not similar-- similarly available for the state's tax incentive programs. Take ImagiNE Nebraska, for example, which provides relatively little information about the specific companies that receive incentives. The reporting requirements in the ImagiNE Act are largely the same as those in Nebraska Advantage and only include basic information like a company's name, location, and a two-year sum of the tax credits used in sales taxes refunded. No additional company-specific information is reported, including information about personal property taxes abated. The finite nature of this reporting provides little detail about the activities being subsidized. For example, it was not until 2016 that the Performance-- Performance Audit Committee's report on Nebraska Advantage showed that the majority of benefits, 64 percent, were earned for increased investment rather than job creation. While not making a value judgment as to whether good or bad, the information would never have been made available but for the committee's report, and they only evaluate incentives once every five years on an aggregate program-wide basis. LB134, however, would give more real-time analysis of the program by providing data yearly and on a granular, company-specific level. The new data would help policymakers form a foundation to make impartial observations as to whether the programs are meeting legislative goals. Just as the state reviews its appropriations on a two-year cycle, LB134 would provide detailed feedback more often so that policymakers could make better informed decisions about the state's tax incentive programs. The proposal before you today would put the transparency of tax incentives on the same playing field as other state appropriations. Tax incentives ultimately are a form of state spending, but un-- unlike the state's General Fund appropriations, there's often little detail about where

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the money went. Money spent through the tax code may be a different form, but it is spending, nonetheless, and must be made up through taxes on the remaining taxpayers. LB134 would shed light onto the state's tax incentives, and we fully support more accountability and transparency. For these reasons, we urge your support of LB134, and with that, I'm happy to answer any questions the committee may have. Thank you.

**LINEHAN:** Thank you very much, Mr. Beck. Are there questions from the committee? So you're OpenSky's fiscal analyst?

**CRAIG BECK:** Correct.

**LINEHAN:** So what's your background as far as-- as being an analyst on fiscal policy?

**CRAIG BECK:** So prior to OpenSky, I worked for the Legislative Performance Audit Committee.

**LINEHAN:** So is-- that was your training, your professional training,

**CRAIG BECK:** Correct, yeah, professional, yes.

**LINEHAN:** OK, thank you. Any other questions? Thank you for being here.

**CRAIG BECK:** Yeah.

**LINEHAN:** Other proponents? Seeing none, are there opponents? OK

**CHAD DENTON:** Good afternoon.

**LINEHAN:** Good afternoon.

**CHAD DENTON:** Chairwoman Linehan and members of the Revenue Committee, my name is Chad Denton, C-h-a-d D-e-n-t-o-n. I'm a board member of the Nebraska State Chamber and chair of their economic development council. I'm here today to testify in opposition of LB134 on behalf of the Nebraska State Chamber, the Lincoln Chamber, and the Omaha Chamber. First, and most importantly, our opposition to this bill is not an act to reduce or minimize the importance of company information to the state departments, NDR or DED, or the importance of transparency to this body or others. Transparency is important and was

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an integral component of the LB720 process. But LB320-- LB134 causes tremendous amount of concern in terms of direct and indirect information about the taxpayer and the business operations. In addition, we believe there should be concerns as to whether parts of this bill may violate Nebraska's statutes relating to confidentiality. With the limitation of time, I won't, but can, talk through the information provided by the companies to NDR and DED. But for our testimony, what is relevant is what's provided today, what's not, and why that particular entity information causes concern. Current reporting at the taxpayer location level does list the taxpayer, the city location, the program, and, like it was said before, in two-year aggregate, the amount of benefits realized by the company. In addition, current reporting issued by NDR's annual report does provide detailed summary similar to LB134 but, as explained, in aggregate and by industry. Current reporting does not single out the line-by-line categories of activity by a single location. That line-by-line detail by location entails a lot of data points specific to a site, some of which causes concern in its plain meaning, but as we start taking into consideration multi-data points and input, it leads to more unintended information share about the locations. I came up with some examples. But in the effort of time and knowing my limitations on time, the couple that made the most sense, or the one that made the most sense was taxes. So what if I want to know if a taxpayer is paying taxes, at what levels, for how long? What about income tax, sales and use taxes withholding? So the easiest example is probably the income tax. How can I find out if a company is paying Nebraska income taxes and I-- can I figure out how much? So if I know all their credit totals, so I know how many employment credits they earn, how many investment credits they earned, those total credits by type, and I map those out by year, which is all being identified in this, then I know the refund claims too. So I know what they're filing for refund claims every year, which would be income tax, sales tax, direct refunds, property tax withholding, so I know all of that by type. I can map that out by year. Then, inherently, I have the information of taxes paid in each category by that company by year; and I have it by year, so now I have that historical pattern also. That's good. But if I also know that they have more credits available, so if I know what they used and what they didn't and I notice that they have credits outstanding that don't add to here, I know they have additional credits outstanding and, therefore, I can tell what their income tax liability probably is by

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assumption because they had credits to utilize against income tax, but this is the only number they put on the-- the document. Thus, specific to income tax, if I see a zero every year for credits used against income tax, it's an assumption, but there's probably a good chance that they're not incurring Nebraska income tax. If I see a zero in multiple years and then in a year half-tax, now I know they probably started making money, started paying tax, and I know that they have more credits available, that leads me to more information. They'd probably tell me that they've capped out their income tax and even though they've had more credits, they were limited by income taxes due. All those circumstances tell me something that is confidential. I'm not sure how this plays out between C corps and flow-throughs, but then is there some measure of worry about the shareholders too? Recapture is another story. Recapture, do we want companies to know if they're decreasing employment investment, if it's a blip on the screen and, therefore, that identification of that? In closing, businesses provide a lot of information to DED and NDR, and I believe similar reporting is being done by the departments via the annual report, albeit in aggregate and by industry, not by individual company. Providing this level of detail in a business environment where interested parties--

**LINEHAN:** That's time.

**CHAD DENTON:** --whoever they may be, for whatever reason--

**LINEHAN:** Time.

**CHAD DENTON:** --it's a serious concern. I'm sorry.

**LINEHAN:** I have to [INAUDIBLE]. Do have questions from the committee? Senator Flood.

**FLOOD:** Mr. Denton--

**CHAD DENTON:** Yes, sir.

**FLOOD:** --you were just finishing your thought there on how it impacts the-- the business. Are you worried about other businesses being able to tell if their competitor is-- what percentage the market has?

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**CHAD DENTON:** Yeah, I-- I-- I think there's lots of lookers. I mean, it could be as easy as the salesman-- salesman wanting to know what the budget was. But if I think of an industry with a lot of locations, if I can track their investment credits, I can track their cap ex per year, so I'll know what that facility was spending for however many years this is reported. So I think it's competitor; I think it's vendor; I think there's a lot of information out there.

**FLOOD:** Thank you.

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

**FRIESEN:** Thank you, Chairwoman Linehan. So I know there is proprietary information that people are concerned about, but when-- when we put the public's tax dollars, I guess, this-- to do something and-- and, you know, I've been on Performance Audit and it's really hard to count the numbers of whether or not these incentives are working. And-- and everybody's got their own analysis and idea of that, but without accurate data, we're kind of at a loss. And so we have that argument all the time: Does it work or not? And so why, when tax dollars are involved, again, why-- why shouldn't we be able to see some of that? Because I know there's portions of it they cannot let us see, even as senators, that we cannot analyze that ourselves, much less put them public. But why shouldn't those tax dollars be accounted for and-- and show how they're used?

**CHAD DENTON:** Yeah, I-- I don't know if I can directly dispute whether or not you should have information to identify [INAUDIBLE] to the state. You're investing in these companies that spend the money. I think I'm either concerned with the information that is going to be provided, direct or indirectly, via this information shares a lot of confidential information that would be worrisome for businesses and I think would be hurtful to them.

**FRIESEN:** Are there certain line items where you agree with or is it just across-the-board don't want to?

**CHAD DENTON:** I don't know what information may or may not be useful to someone, but if I look at employment credits and I can identify, it says on there how many net new jobs were created and now I know how

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many employment credits they created and I know what their employee withholding is over here, I can get some wage data, some decent assumptions on the wages that they're paying to those employees, and I think that would be useful to somebody.

**FRIESEN:** Come up with an average.

**CHAD DENTON:** Yeah, but depending on what type of company I might be, if I'm a startup with ten employees or if I'm a stagnant company that just put in a new line or if I'm a-- a cutting-edge company that picked Nebraska to come to and I've got new technology that's first to market, that information may be really valuable to someone to know how much they're spending and what those wages are.

**FRIESEN:** OK.

**CHAD DENTON:** Not disputing-- yeah.

**FRIESEN:** Thank you.

**CHAD DENTON:** Yes, sir.

**LINEHAN:** Thank you, Senator Friesen. Other questions? OK, I think there's a couple of things I would like-- was in your testimony. There are reports put out what company is receiving benefits, right? But it's in the aggregate.

**CHAD DENTON:** In the aggregate.

**LINEHAN:** And it's over two years.

**CHAD DENTON:** Yes.

**LINEHAN:** But if you really wanted to, couldn't you get all those reports and sit down and figure out? I mean, it wouldn't take too much math to figure out--

**CHAD DENTON:** Correct.

**LINEHAN:** --what's going on because you take the last two-year thing and look at the next two-year thing and--

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**CHAD DENTON:** Yeah, it's when you start adding additional data points. With just the aggregate, and if I went back to every other report, I could come up with what that company has realized over those years.

**LINEHAN:** So you can figure that out, what a company's--

**CHAD DENTON:** In aggregate.

**LINEHAN:** Right. And that report is-- is, I suppose, in statute that they have to report and the department-- so then-- and I'm not trying to-- I really don't know for sure the answer to these questions, but the Department of Revenue and the Department of Economic Development have everything, right?

**CHAD DENTON:** Yes.

**LINEHAN:** They audit them. They know exactly what's going on.

**CHAD DENTON:** Yeah, they have all this.

**LINEHAN:** So do you think there might be-- and I-- I've never spoken this out loud before. I don't even know if I've had this thought before. You think there might be some advantage to having the Executive Committee or the Revenue Committee in the Legislature having some access to that on some kind of annual basis so we could feel convinced that we're doing the right thing? It would have to be under some--

**CHAD DENTON:** Yeah, I would hate to speak for the chambers--

**LINEHAN:** Right, I know, but [INAUDIBLE]

**CHAD DENTON:** --because I don't know that answer. But back to your point is, how do we identify an ROI? So I would think the chambers would want that dialogue to answer those questions.

**LINEHAN:** Because isn't that-- some state employees have this information, clearly.

**CHAD DENTON:** Yes.

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**LINEHAN:** We're not employees, but we are elected with the trust of the people.

**CHAD DENTON:** Correct.

**LINEHAN:** OK, that's a thought maybe. Anybody else? Thank you, Mr. Beck, very much for being here.

**CHAD DENTON:** Thank you. Have a nice day.

**LINEHAN:** Are there other opponents? Are there any other opponents? Is there anyone wanting to testify in the neutral position? OK. So we had two letters for the-- no hand-- written hand in-- no written testimony was handed in this morning, but we had two letters on the record for and one against and no one in the neutral.

**BRANDT:** Great. In regard to Mr. Denton's testimony, you know, the chambers' concern for companies' privacy I find heartwarming. You know, don't take the money if you don't want to be on a public report. So I look around this committee and I see one, two, three farmers, and probably somebody that owns farm ground, and any of us that go to the FSA office, within one dollar, by this evening, I could find out how much government money you've all gotten. People that are in the teaching profession, those are published in the newspaper. I mean, virtually every business, to some degree, has public disclosure. And I don't know what secrecy that the chamber, you know-- you know, if somebody wants to delve into a company's business, there's a number of ways to do it. This probably isn't that great of a way to do it, from what little I know in my background with accounting classes I've taken. The information that we're looking for, Senator Linehan, you-- you-- you said it. It's already there. This information is already sitting at Department of Revenue and DED. They don't need any additional people to disclose this. They just need to disclose it. So, I mean, those data points are there. And if-- if the executive committee is-- is a step in the right direction, you know, we're willing to look at that. But we would like to see more disclosure than what the-- the people of Nebraska have right now. You know, we're spending \$200 million a year on incentive programs and there's very little information on where that money is going and, granted, it's over a variety of programs. So with that, I would take any-- any questions if there are any questions.



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

**BRIESE:** Thank you, Chairman Linehan. Thank you for bringing this, Senator, appreciate that. What level of transparency is afforded by other states in their incentive programs? How would this compare to other states?

**BRANDT:** I wouldn't be the guy to answer that.

**BRIESE:** OK, that's fine.

**BRANDT:** Mr. Beck from OpenSky could probably get you that information. I see him shaking his head back there, so he'll get that to the committee and-- and get that information to you.

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

**BRANDT:** Yep.

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

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

**LINEHAN:** Thank you. And that brings our hearing on LB134 to a close, and next we will have our hearing on LB523. Senator Albrecht. Good afternoon, Senator Albrecht.

**ALBRECHT:** Good afternoon, Chairwoman Linehan, members of the Revenue Committee. For the record, my name is Joni Albrecht, J-o-n-i A-l-b-r-e-c-h-t, and I represent Legislative District 17 in northeast Nebraska, which includes Wayne, Thurston, and Dakota Counties. We continue to be inundated as elected officials by citizens concerned with over-high property taxes. One way this body can assist taxpayers is to assure, when possible, they are directly included in decisions of major spending decisions when tax increases are necessary. Historically, in Nebraska, when a necessity was deemed by a local school board to build a new school structure or expand existing structures, we have held elections to fund those projects. When I vote for a local school board member, I've always believed I was giving that person the authority to make policy, hire staff, purchase

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supplies, pay utilities through the general fund, and maintain existing school structure through the use of depreciation funds included in their reserves. I have never believed that I was giving that individual the authority to build a new school structure without my approval through an election. Since the advent of the levy lids created through LB1059 in 1990 that created the TEEOSA formula, the majority of school districts' building fund has traditionally been limited to a portion of the \$0.05 levy allowed over the \$1 local effort rate factor in TEEOSA. TEEOSA formula is based on classroom needs to educate children. It assumes a dollar levy needed to fund the local effort to educate before state aid is given. It does not assume-- assume a new school building will be built with a portion of that local-- local effort rate. The tradition has been disrupted in Nebraska by an unintended loophole created in the TEEOSA formula. Drastic valuation increases in ag land has caused this shift of school funding to property taxpayers. But more important, LB523 [SIC] has also caused the locals-- it has also caused local school general fund property tax levies to be driven down by the TEEOSA formula, not by the local school board, allowing local school administrators to convince their school boards to circumvent their traditional process of voter approval for new school construction by using the \$0.14 building fund levy and stay under the \$1.05 max levy. The intent of LB523 is basic to local control. It will close the unintended loophole, limiting school boards' ability to build new school buildings without the consent of the majority of local citizens. It limits or it will limit school districts to \$.06 from the building fund unless they get approval from the local citizens or access the remaining \$0.09 of the \$0.14 total. So in other words, the school district could continue to use \$0.06 of the building fund in the same manner that they currently do. But if they want to levy more than the \$0.06, they would have to receive the approval of the majority of their local voters at the general or special election called for the purpose. I should point out that the majority of-- that the majority vote provision in the Section 79-1098 of LB523 is a change from the current required 55 percent approval of those who attend a special meeting called by the school board, which is a remnant of the old Class 1 school district provisions. LB523 does not eliminate any of the current uses of the building fund and in fact it expands it by adding replacement repairs on existing structures. LB523 does not alter the fiscal conservative aspect of using the building fund in

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lieu of bonding for school construction. What it does is it increases the local control by requiring voter approval before a district can levy over \$0.06 and no more than the \$0.14 for building fund. LB523 would allow projects commenced prior to the effective date of this to continue the current levy provisions through 2025-- 2024 through 2025 school year. That "alleviates" the fears of some school districts who are well over \$0.06, have projects in progress, and that they continue for that-- another five years before they'd have to vote on a levy override of a building fund levy override, OK, so but not a-- but no district-- excuse me-- but no district may have a total levy above \$0.14. LB523 requires school boards that levied a special tax under Section 79-10,1-- 120 for school fiscal year 2020 to 2021 to file with an Auditor of the Public Accountant [SIC] to-- a statement describing any project for which the annual levy may be continued and the rate levied for each project. This new reporting requirement will help to identify those projects that were commenced prior to the effective date of this act and are able to continue to collect the levy through the school year 2029 or-- and 20-- 2030. As I previously mentioned, our intent in bringing this bill is simple. I wanted to give citizens a vote on a major local tax decision. And I thank you for listening and respectfully ask for you to advance LB5-- LB523 out of the committee and onto the floor. Take any questions.

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

**TRENT LOOS:** Good afternoon. Thank you, Chairman. Thank you, members of the committee. I do appreciate the opportunity to once again be sitting in front of you discussing the issues for a number of reasons.

**LINEHAN:** I need your name.

**TRENT LOOS:** Trent, T-r-e-n-t, Loos, L-o-o-s, Sherman County. Thank you for that reminder. I actually woke up this morning not knowing whether I should make the trip to Lincoln and sit here in front of you or not with my thought process that each one of you have already made your decisions before the committee actually hears testimony. I think that happens quite often. I had a couple things happen. It dawned on me that if I don't show up, it's on me that you made your decision without knowing what I think about LB523. And the second thing that

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happened is that Loup City school district is not in session today and our senior daughter is sitting here with me because she said, Dad, if you're going to Lincoln, I want to go with you. And so I thought, I can't pass this opportunity for an 18-year-old that's a product of a public school system in Nebraska to see how the system works. The real question is, why are we sitting here with a room that only has six people in it when we're talking about the spending, the taxation, and the education of future Nebraskans? And yet, if this bill passes, at Aurora Coop, the morning after, there will be a plenty of people sitting in there, drinking coffee, with complaints about what you did. So I'm here for those reasons. I'm here to say that I hear as-- I learn as much as I do share information with you. Five years ago, I sat in this chair in a property tax discussion talking about runaway property taxes in the state of Nebraska. I got two phone calls today driving down here-- they had no idea I was coming here-- asking what has happened with Nebraska property taxes. I said, well, number one, it's not new, and number two, five years ago, when I first came down here, I learned that it's not controlled simply in this building. It's controlled in that courthouse in Loup City, Nebraska. And so I became more involved and I understand the Loup City school system budget and finances more than I ever thought I could. And since I sat in front of you two weeks ago talking about another property tax bill that I support, I've made up my-- made it a point to contact other school systems in our district, in our region, in the western part of the state of Nebraska where we don't have people and where we don't get TEEOSA money. There's a problem, and I figured out that if we actually reduce property taxes at the level that I think is appropriate, we have school boards who have become school boards-- and I should say superintendents who have become addicted to spending the amount of money that they're getting. And in my personal school district, we've gone from a \$0.61 mill levy to an \$0.83 mill levy in the past year to overcompensate for a slight reduction in the farmland assessment. So we can reduce property taxes, but do we really solve what we're talking about? How do we send the message to the schools to be more frugal with their spending? I talked to one school district this past week that has 95 students and they had a superintendent that was trying to gain momentum for a \$7 million school building; happens to be in District 41. What do we do about that? And I recognize that this is not the ultimate answer, but there's a loophole that is a serious problem that the Nebraska Association of School Boards is exploiting.

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And that's-- if you build a leased building, you don't need a bond and voter approval of the community. So I really ask you a question as I support LB3-- LB523 as a first step. How do we get people's attention and get them engaged in the process before they get that bill in the mail, before they hear about what this Senate did or did not do to control property taxes? All government starts at the local level, and so I'm here to hear as much as I am to share about how we can engage more people in the process. And to me, this seems like another nice first step in sending a message to people that you need to be spending locally in line with what the community thinks is important. Thank you.

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

**BRIESE:** Thank you, Chairwoman Linehan. Thank you for coming here today, really appreciate that. It means a lot to us. You know, if-- we need to hear from folks like you on issues like this. But typically, a school district patron has the ability to vote before their property is encumbered to pay off a long-term bond issue by a school district. Correct?

**TRENT LOOS:** Um-hum.

**BRIESE:** And this use of a special building fund that's been done in the past circumvents that requirement, doesn't give you the chance to vote, and you're troubled by that, aren't you?

**TRENT LOOS:** I am troubled by that.

**BRIESE:** Yes, I am, too. Thank you.

**TRENT LOOS:** I'm also troubled by the fact that there was a meeting last night in Arcadia that lasted three hours with a gymnasium full of people, and they're talking about a special election to have a middle of at \$1-- \$1.35. Spending must be kept in check.

**BRIESE:** Thank you. Thanks for being here.

**LINEHAN:** Thank you, Senator Briese. Senator Friesen.

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**FRIESEN:** Thank you, Chairwoman Linehan. You've been coming here a long time. This is my seventh year. We run into roadblocks almost constantly. We've gotten, I'll say, very little done. So how are we going to solve a problem? It is part spending problem, part lack of funding? Would you agree?

**TRENT LOOS:** I don't know that I agree there's a funding problem. I think there's a spending problem. I did talk to schools, now that you mention that, that told me they were mandated to do some special education and they're not getting compensation from the state that they thought they were getting, so that would be a funding problem. But I don't know if they're not doing the proper due diligence to request the funds or what the issue is there.

**FRIESEN:** Well, we-- we spend roughly \$1.1 billion in state aid to schools, so maybe it isn't a funding issue. Maybe it's a distribution issue?

**TRENT LOOS:** Clearly, the state funding does not get distributed evenly throughout the state.

**FRIESEN:** So like in your school district, what portion of the-- their budgets would come from the state?

**TRENT LOOS:** TEEOSA formula is \$20,000. What is our budget? I'm going to get back to you on that, the total budget.

**FRIESEN:** I-- we-- I think we've got--

**TRENT LOOS:** I can tell you that we spent \$1,300 per student on administrative salaries. But again, I recognize that is our problem and we need to solve that locally. How do we get people engaged to be more involved in the process, is what I'm trying to find out.

**FRIESEN:** Well, it-- and I-- I'll agree with you. How do you get people more engaged, because everybody says, well, we just-- it-- it's for our kids, we have to spend that money. But are we seeing the results for the money we spend?

**TRENT LOOS:** No, we are not. I can speak to Loup City school systems. Our scholastic reporting is not up to par, and we spend almost twice as much per student as the state average.

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**FRIESEN:** OK, thank you.

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

**FLOOD:** Help me understand that question line of questioning there. What is the state average and what does Loup City--

**TRENT LOOS:** State average is \$13,000 per student. We spend \$22,000 per student.

**FLOOD:** \$22,000?

**TRENT LOOS:** Correct. There's one school in our geographical area that spends \$28,000 per student annually.

**FLOOD:** What district is that?

**TRENT LOOS:** Pardon?

**FLOOD:** What district is that?

**TRENT LOOS:** Litchfield.

**FLOOD:** And is this a-- is this a census issue? I mean, how many students are in Loup City?

**TRENT LOOS:** 275.

**FLOOD:** K-12?

**TRENT LOOS:** K through 12.

**FLOOD:** Do they have preschool?

**TRENT LOOS:** Yes, through C&C--

**FLOOD:** OK.

**TRENT LOOS:** --not self-sustaining, which I'm glad you bring that up. That's another troublesome spot in our community because the local school board and superintendent are getting the message from the National Association of School Boards, who I have a problem with, telling the school they need to be preschool, teaching these kids. We

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have a partnership with C&C doing that and it's working extremely well and it cost us less money on money they're already getting anyway, so it's additional spending that we don't feel we need.

**FLOOD:** Do you have much option enrollment in Loup City?

**TRENT LOOS:** Not much.

**FLOOD:** OK.

**TRENT LOOS:** Optioning in?

**FLOOD:** Yeah.

**TRENT LOOS:** I think it's less than 20.

**FLOOD:** Twenty option students?

**TRENT LOOS:** Correct, of 275.

**FLOOD:** Thank you very much.

**TRENT LOOS:** I find that number to be wrong, I'll get back to you.

**FLOOD:** No, you're fine.

**TRENT LOOS:** But it's ballpark.

**FLOOD:** Thank you.

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

**BOSTAR:** Thank you, Chair Linehan. Thank you, Mr. Loos. I certainly like to believe that our minds aren't made up before you walked in the room, and I-- I feel fairly confident, speaking for my colleagues here, that they would probably agree with that, and if they want to speak up and disagree, certainly, they're welcome to do that. But I appreciate you coming and giving your perspective, and I-- in thinking through what you said about how this is sort of a local issue, do you feel that-- that the school boards in your area don't represent what the residents of your area want to see happen?



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**TRENT LOOS:** The greatest division I witnessed in my lifetime occurred and Loup City in the past two years, and it comes back to spending at the school board and people who don't engage in the process, then get that property tax bill in the mail and say, what happened? I personally have not missed a school-- I missed one school board meeting in the past 14 months because I don't want to be that person. I want to be involved.

**BOSTAR:** Well, I certainly appreciate you being involved. So when-- when the average person who isn't very engaged gets that bill in the mail and wants to understand what happened and then, let's say hopefully, there's someone there that can explain to them what happened. Does that then solve the problem? Do-- do then the residents of the district vote for a different school board, or is it the same people?

**TRENT LOOS:** I can speak clearly to Loup City.

**BOSTAR:** Yeah.

**TRENT LOOS:** We had five open seats in the past election. And one would know that in the state of Nebraska, those five open seats, they're out looking for people to run for those seats. There were 12 people that ran for five seats on the Loup City School Board in the last election. I can also tell you, I think this is kind of where you're going with that and I appreciate that line of questioning, because one of the first meetings I went to when there was a proposed new \$3.7 million building in Loup City, when we have a facility that will hold twice the number of students we already have, one of the school board members voiced the opinion and said, well, there's a storm upon us now, but we know all storms will fade. And that was my motivation to make sure I was the storm to hold this board of education accountable to their spending. And people came for a long time. The last school board meeting, which would have been three weeks ago now, myself and two other people were there.

**BOSTAR:** Well-- well, thank you for that and, I mean, I believe that the most effective government is made up of representatives that truly represent the views and beliefs of the constituencies that they're representing. And if there's a mismatch there, then, I mean, that-- that is a-- that is a local issue, certainly, and-- and I can

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understand your frustration if that's the case. With that, thank you very much for your time.

**TRENT LOOS:** Thank you.

**LINEHAN:** Thank you. Senator Bostar. Are there other questions from the committee? I'm going to go back to something you said. You said your levy, your general fund levy went from \$0.61 to \$0.83?

**TRENT LOOS:** Correct.

**LINEHAN:** That's a 36 percent increase?

**TRENT LOOS:** In one year.

**LINEHAN:** Did ag values drop? How much?

**TRENT LOOS:** They dropped. I can't tell you the percentage. I could text my wife and she could tell you.

**LINEHAN:** We could probably find it, but it was at 36 percent.

**TRENT LOOS:** No, that's--

**LINEHAN:** Think that would have been on the radar, in newspaper, if you had [INAUDIBLE]

**TRENT LOOS:** No, that's correct. It was not-- it did not match--

**LINEHAN:** Yeah.

**TRENT LOOS:** --what the increase was.

**LINEHAN:** So-- so a follow-up on Senator Bostar's, you-- you don't have a problem if there's a vote of the people to build a new gym, right, or a new--

**TRENT LOOS:** That's correct.

**LINEHAN:** So the point here is not-- like, let the people vote. That's the most local control you can get, if everybody gets a voice.

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**TRENT LOOS:** And with all of the division that, again, I can speak to in Loup City and I'm witnessing in Arcadia at this moment, it is about people saying, don't do this without a vote. We just want the system to work as it's intended, and that is to have a say. This loophole that allows a leasing agency under the direction of Nebraska Association of School Boards to go around the community without a vote, that's what I have the problem with.

**LINEHAN:** So-- so second or third time you've mentioned the Nebraska Association of School Boards. Are they-- like they actually come out? What--

**TRENT LOOS:** No, they have an annual convention. And in the same meeting that this Board of Education member said that all storms fade was also the meeting where they gave a summary of what they had just learned at the state convention they attended. And the summation of each one of these board members was, well, we learned from the state association how to get what we think we need in the community, in the school without the community's support.

**LINEHAN:** Thank you.

**TRENT LOOS:** That was a major red flag to me.

**LINEHAN:** Any other questions from the committee? Thank you very much for being here.

**TRENT LOOS:** Thank you for your time.

**LINEHAN:** Thank you for bringing your daughter.

**TRENT LOOS:** My pleasure, trust me.

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

**JACK MOLES:** Good afternoon, Chairperson Linehan and members of the Revenue Committee. My name is Jack Moles; that's J-a-c-k M-o-l-e-s. I'm the executive director for the Nebraska Rural Community Schools Association, also referred to as NRCSA. Today I'm also speaking on behalf of the Nebraska Council of School Administrators, Schools Taking Action for Nebraska Children's Education, and Greater Nebraska Schools Association. On behalf of these groups, I'd like to testify in

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opposition to LB523. The special building fund, as it currently exists, enables the locally elected Board of Education to make decisions on funding facility repairs and improvements. It does also provide for the local board of education the opportunity to make decisions on the funding of property purchases and construction projects. Some boards have decided to take on such projects. I did a little-- I did an informal, very informal survey of some of our members. This is not all-inclusive, but just some of the things I heard, some of the stories I heard. Some of the projects they-- they said that they did build are listed here, for example, greenhouses for ag classrooms, expansion of science classrooms, special education classrooms, libraries. A couple talked about building regular education classrooms because of unexpected student growth, lunchroom expansions, weight rooms, the like, bus barns, purchase of land for further-- further-- future projects. I also had a few other examples, and again, these are not all-inclusive, but in which the locally elected board of education used the route of the special building fund to help pay for larger projects. For example, one built a new elementary building and did not raise their levy rate. Another built a new high school and saved the local taxpayers over a million dollars in interest payments. And a third built a -- was kind of an extreme example-- built a new elementary building after a tornado destroyed the existing elementary building. That board paid for a third of the project through the special building fund and then two-thirds of it through FEMA funding. Each of those large-- in each of those larger projects, it was expressed to me that the board communi-- communicated a great deal with the patrons and informed them on plans of the projects. They received a lot of input from their-- from their patrons. And some of those were not in favor of the project. But at least they took the information and use that information and considered the input. A special note was the amount of money that was saved by the district's patrons in the larger projects. A couple of them did talk of over a million dollars saved in-- in not having to pay bond interest rates. An issue faced by the Nebraska public school districts in comparison to other states is that Nebraska does not provide any state funding or assistance for school construction projects. Two studies that I looked at, one was 2018 from the-- it was provided to me by the National Rural Education Association-- Association, showed that about 30 states provide some sort of funding for construction projects. More recently, a 2-- 2020 report from the

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U.S. Gov-- U.S. Government Accountability Office showed that 35 states provided some sort of state funding to school districts for construction projects. And then a third study, that I haven't had a chance to review but from the Texas Legislative Council, may suggest that Nebraska is only one of four states that don't provide some type of funding for the cost of facilities and construction projects. Thus, local districts are left to-- to use local resources. There are ways to increase transparency in the use of the special building fund, and the Education Committee would be very happy to work with Senator Albrecht and the Revenue Committee to explore these mechanisms as opposed to limiting the ability of the locally elected board of education members to make decisions on issues. The charge of a local school board is to make tough decisions at times. These are tough decisions. They're not easy decisions and they're not ones that the local board takes lightly. They do get a lot of input. For that-- for those reasons, I'd like to encourage you not to advance LB523 out of committee.

**LINEHAN:** Thank you. Are there any questions? Senator Flood.

**FLOOD:** Thank you, Chair Linehan. Thank you, Mr. Moles. I'm trying to understand the special building fund. So it's 14 cents inside of the total levy authority of \$1.05, right?

**JACK MOLES:** Yes.

**FLOOD:** And if you don't use-- let's say you don't have a special building fund. You don't have to have one, right?

**JACK MOLES:** Right.

**FLOOD:** OK. So by allowing the school district to take up to \$0.14, they make a conscious decision to put that inside their \$1.05.

**JACK MOLES:** Yes.

**FLOOD:** OK. Do you know that for community colleges, we don't do it that way. We have a \$0.02 capital construction levy and then we have a \$0.10 operational levy.

**JACK MOLES:** OK.

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**FLOOD:** What would be the impact you if we just took the \$0.14 cents away, dropped it down to \$0.91 or-- I can try and think what it would be-- and does every school district take the \$0.14?

**JACK MOLES:** No, no, no. I'll give you an example. The district I was in when I was a superintendent, the most we ever took \$0.06 and usually it was \$0.03.

**FLOOD:** So are you allowed to take that money into the special building fund and keep it and let that account build up?

**JACK MOLES:** Yes.

**FLOOD:** And is there any restriction on how much you can keep in that special building fund?

**JACK MOLES:** I-- I think there is a-- I think there is a level that you can-- but I-- I don't know what that is, a level--

**FLOOD:** And cities are not allowed to do that.

**JACK MOLES:** OK.

**FLOOD:** Then I was going to ask you about greenhouses, using property tax dollars for greenhouses. What district was that?

**JACK MOLES:** I can-- I-- there were a couple instances of that. I can get-- get those and get them back to you.

**FLOOD:** OK. Would it have been smaller rural schools?

**JACK MOLES:** Yes.

**FLOOD:** OK. OK, I-- you can't bond out of that, obviously.

**JACK MOLES:** No.

**FLOOD:** And did they build a new high school in O'Neill using this fund?

**JACK MOLES:** I'm not sure on O'Neill.

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**FLOOD:** And you-- yeah. What-- what-- what-- how much money is held in this special building fund that you know of, like can you hold like \$20 million in it?

**JACK MOLES:** I-- I don't know the maximum that you can hold.

**FLOOD:** Because I-- I think that the taxpayer may have a question about why are you taking more money than you need to operate the school and holding it in this special fund? I can-- I can see that being a legitimate concern.

**JACK MOLES:** What-- what I would hope is that the local school board is-- is communicating with their patrons about what they're doing or why they're taking money in there. I know we always-- annually, I did that every year, and what we raised before was mainly for like roof projects, things like that. We weren't looking at new construction.

**FLOOD:** Right.

**JACK MOLES:** But--

**FLOOD:** And I think that's what it seems to be for, roof projects, heating and air, stuff like that, building maintenance.

**JACK MOLES:** But written into the law is-- it does-- does allow for purchase of land and for construction projects too.

**FLOOD:** Yeah. Thank you.

**LINEHAN:** Thank you, Senator Flood. Senator Pahls and then Senator Friesen.

**PAHLS:** Thank you. You made a comment about certain states give money to allow the locals to build buildings. Well, you know, the problem I have with that then, because we do need to consolidate, it's a fact of life, so if I'm a school, if I can get somebody from the state, I want to make sure I have a brand-new school here, then the reason I'm going to say that-- I'm going to really tell on myself. Growing up in Kansas, in 19-- 1968, they unified all their districts. But before they did that, a lot of these towns built buildings thinking that that would save them. Well, it didn't, I mean, because it is-- in '68, they unified because I was in districts. And just, what, about four or five

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years ago, my old high school lost its name because eventually everything-- you know, the little towns got together [INAUDIBLE] But I think that's a problem. If they have access to money, they're going to build a building hoping that will save their school. So I'm a little-- I have a little bit of an issue with that proposal.

**JACK MOLES:** To-- to me, that would not be really any different than running a bond election and building a building, the issue that you're talking about.

**PAHLS:** Right, that could happen right now. Let's say, for example, several local-- because we know if you're spending 13-- what was is, \$20,000--some a student. I know in some schools they can't help it because they're lo-- so far apart. But we have to become-- we have to get a little bit realistic because I know Senator Flood, last time we were down here, Title-- Chapter-- or Title I-- or Class 1 schools, we-- they did-- organ-- I mean, they had to basically do away with it. It's a--

**JACK MOLES:** Right.

**PAHLS:** It's a reality. The cost is going up because fewer students, it's going to go up. That's-- that's the part I'm concerned about [INAUDIBLE]

**JACK MOLES:** OK.

**PAHLS:** Thank you.

**LINEHAN:** Thank you Senator Pahls. Senator Friesen.

**FRIESEN:** Thank you, Chairman Linehan. So currently, if you want to-- if you want to build a new school and you want to do bonds, you have to have a vote of the people?

**JACK MOLES:** To do a bond election, yes.

**FRIESEN:** To do a bond election. And so what would be wrong with saying that you can have-- we leave the levy in place and you can use it for maintenance and fixing up your buildings, remodeling, you can accumulate a little bit of money in there, but anytime you want to expand your footprint or buy new land, you have to have a vote of the



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people before you start putting money in there, because I'm-- to me, in some cases, if you've got the levy authority and you don't need to bond in some projects, it's cheaper to just slowly levy it. But again, you're bypassing a vote of the people by doing it in another way. And that's, I think, what we're-- the concern is for most of us is you bypass that vote. So would it-- would it work to do it that way, to say that, you know, that levy can still be there? But again, you have to have a vote of the people before you can access it.

**JACK MOLES:** We would contend that that's why you vote for-- that's why the local board members are elected, to make those decisions, if that's the route that goes-- that they're going to have to sell to their people anyway. Yeah, you don't have an election, but they still have to sell it to their patrons. And I think most of the-- most of the boards that I talked to, or most of the superintendents that I talked to, when they did this, they were very open with their people and talked to their people about it and let them know what was going on.

**FRIESEN:** I guess it boils down to the problem is, is that the minority of the taxpayers are paying the majority of the fund.

**JACK MOLES:** You are correct.

**FRIESEN:** Thank you.

**LINEHAN:** Thank you, Senator Friesen. Other questions from the committee? So you're here representing Nebraska Council of School Administrators, Nebraska's-- I won't go through-- just STANCE and NRCSA. Where are-- where is the-- is the Nebraska Association of School Boards going to be here today?

**JACK MOLES:** They'll be following me.

**LINEHAN:** OK. So I understand-- maybe I don't understand something about this bill. It doesn't change the \$0.14 cent levy, does it?

**JACK MOLES:** Well, eventually, it would do away with it.

**LINEHAN:** OK. So what if-- what if the bill was just-- if you're going to build a building or if you're going to spend over X, you have to have a vote of the people?

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**JACK MOLES:** Again, what our groups believe is that this bill has been in place for a long time, it seems to work pretty well, and that the people do vote for the board members.

**LINEHAN:** Mr. Moles, I'm sorry. Nope, there's-- I don't know anybody in Nebraska that thinks our property tax situation is working well.

**JACK MOLES:** No, they don't.

**LINEHAN:** Right. So what is the problem with having a vote of the people?

**JACK MOLES:** That we believe that that's why the local board members are elected.

**LINEHAN:** So you think that the local board is better able to decide what everybody else can afford and wants to do than having them have a vote of the people.

**JACK MOLES:** I'm saying that they have a pretty good feel for what's going on with the people. They don't-- they don't do this on a whim.

**LINEHAN:** No-- OK. Why can't they just let them vote?

**JACK MOLES:** Again, we believe that-- that that's why they've been--

**LINEHAN:** You don't want them to vote.

**JACK MOLES:** What's that?

**LINEHAN:** Why wouldn't they want them to vote? If they all agree and everybody's on board and they've talked to everybody, why would they be afraid of a vote of the people? Any other questions? Thank you.

**JACK MOLES:** Thank you.

**LINEHAN:** Good afternoon.

**MELISSA POLONCIC:** Good afternoon. I'm Melissa Poloncic, DC West Community Schools Superintendent. I'm going take this down. Spelling of my name: M-e-l-i-s-s-a P-o-l-o-n-c-i-c. Chairman Linehan and Revenue Committee, I'm here today in opposition of LB523. The building fund is essential to accomplish capital improvements in a school

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district when a bond elec-- election is not possible or it's not needed. Recently, legislation changed the levy capacity of QCPUF funds from \$0.05 to \$0.03 and limited the types of projects that could be done within those funds. Depreciation funds-- excuse me-- may only be used for maintenance and the general fund can be used for maintenance but also provides education to our students. The building fund, up to a \$0.14 levy, currently allows a school district to generate funds which allow needed capital improvement projects within a school district, all by staying in that \$1.05 levy limitation. You've been talking about that. This is without the cost of an election and sometimes even saving on interest rates and financing. When I started as superintendent at DC West in 2014, we had 48 fire code violations, 88 code violations, poor air quality conditions with mold in a building which was medically dangerous to our students; facilities that were 65 years old, hadn't been updated; and they were housing approximately 600 middle and elementary school students. These were real issues. They needed millions of dollars to accomplish getting our facilities up to minimal safety and accessibility standards. Our school district ran two bond issues two consecutive years. We lost both elections. Our community came together after the bonds and they said they knew we needed to tend to these issues but wanted us to find another way that wouldn't increase their taxes. So, through the growth in valuation, we found a way. We used QCPUF. We used building funds to slowly address these code violations, classroom replacements due to air quality and tend to deferred maintenance projects that had been neglected, as well as tend to some updating and additions of needed educational spaces. Most recently, we did build an elementary school as we had a growing population in a 65-year-old facility with six classrooms that were in portables. Our special education rooms were in an old locker room. We had closets and computer labs that were being used as specialist classrooms. These were not extravagant needs we were asking for. This was necessary space. We were transparent in our process, which took multiple years, and our constituents agreed this was an economically efficient way for us to accomplish these needed improvements. Even with a student population growth of over 49 percent in the past 14 years, and using QCPUF and building funds, our Board of Education responsibly stayed at a \$1.08 levy for the entire history of DC West Community Schools. We think that's thanks to quality fiscal management and valuation growth. This school year, we were even able to drop our levy to \$0.95 due to a large increase in valuation. We

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continue to use the building fund levy to meet the needs of our elementary school, all while continuing to keep our levy at that \$0.95 mark. We are the lowest levy in the learning community. The constraints of LB523 would negatively impact our ability to address facility needs and keep the progress of capital improvement projects from happening at DC West. At each penny in our building fund generates about \$122,000. There are small projects, such as building additions, portables, or small buildings, that do not necessitate a bond issue election. They would be more efficiently done use-- utilizing the building fund. I do understand there may be concern across the state of small districts under the \$1.05 cap that may raise their levy to tend to these capital improvements without a vote of the people, yet their boards of education are elected officials. They make these decisions in the best interest of their students and their communities in public meetings, and they're all still staying within levy limitations. How are small school districts ever to tend to the costly construction that is needed to keep our school buildings safe and accessible for our students if we do not have any other means than an election? I'll stop there because the red-- red light's on.

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

**FLOOD:** Thank you very much for your testimony.

**MELISSA POLONCIC:** Yeah.

**FLOOD:** And I can imagine your school district's lucky to have you.

**MELISSA POLONCIC:** Thank you.

**FLOOD:** I am not an education guy. So what is QCPUF?

**MELISSA POLONCIC:** QCPUF are qualified capital improvement funds, basically, and so there has been some reduction. They're--

**FLOOD:** They're federal funds?

**MELISSA POLONCIC:** They're-- and-- no, they do come through-- it's a fund that you levy so you can't levy outside of the \$1.05, so that's why we were at \$1.08 for awhile. We had \$0.03 in our QCPUF fund.

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They're bonds and those bonds can be used for improvements and could be air quality, could be HVAC replacement, it could be--

**FLOOD:** Right.

**MELISSA POLONCIC:** --lots of different maintenance sort of projects.

**FLOOD:** I understand the situation that you're in as the administrator for the school district. And if I am hearing you, you're at \$0.95. But if you took the \$0.14 building levy off, your operations would be like at \$0.81.

**MELISSA POLONCIC:** Correct.

**FLOOD:** What if you went to your patrons and said, we're going to drop the levy to \$0.81 and we're going to make this our operations funding and we're going to-- we're going to-- instead of doing these projects without voter approval, we're going to put a ten-year plan together and these are the facilities we need--

**MELISSA POLONCIC:** Um-hum.

**FLOOD:** --and could we get a vote? Would that make sense in your district?

**MELISSA POLONCIC:** Well, for us, if I kind of back up to my second paragraph, we did put together a longevity plan. That is what the bond issue was about.

**FLOOD:** Sure.

**MELISSA POLONCIC:** It was written two times. Part of the reason our bond issue didn't pass is we were a member of the learning community. We had \$1.5 million of our revenue each year that was going back to the city instead of in our \$13 million budget. That's a hard pill for voters to swallow.

**FLOOD:** Well--

**MELISSA POLONCIC:** And so that was a piece to this that probably nobody else has. But we were unable to pass these bond issues. I had all of these issues--

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**FLOOD:** Well, I-- you-- you do a good job. I-- I didn't consider the whole learning community issue.

**MELISSA POLONCIC:** Yeah.

**FLOOD:** The one thing I would say is that if we discount what the patrons of a political subdivision want and we devalue the idea that their-- that a vote isn't a message and we allow for this end-around, I don't think we are accomplishing the state policy goal of-- of voter involvement in facilities. Now, I think you solved the problem and I can imagine you did a really good-- you are doing a really good job for DC West. I-- I think from where we sit, though, you can see what I'm saying. I-- I mean, if we-- if we keep the focus on the vote, I think that enough-- a majority of our citizens will say, all right, we've got a say in this, and they get a \$0.15 reduction or a \$0.14 reduction in their levy at DC West.

**MELISSA POLONCIC:** Respectfully--

**FLOOD:** Yeah.

**MELISSA POLONCIC:** --and this hopefully would answer Senator Linehan's question, too: Why can't we just have an election? If I share what's next in our story, we actually are going to be running a bond issue again this spring because we need building improvements in our middle school. We're putting that in front of the vote for our constituents. At this point in time, I have ten classrooms for my middle school. I need 16. So if the bond issue doesn't pass, I need portables for these students to go to school, and I can't purchase portables out of any other fund.

**FLOOD:** Sure.

**MELISSA POLONCIC:** And if I can only levy \$122,000 per penny, then if you-- if you think about the math of a portable, you might not know how expensive a portable is, but we put two portables in, we have to put in infrastructure, plumbing, all of those things. They're quite expensive to put in. You may not be able to levy enough money in a given year to be able to put up portables for the students that are coming to your school. And I think most of us, too--

**FLOOD:** Ma'am--

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**MELISSA POLONCIC:** --can agree we'd rather not have kids in portables.

**FLOOD:** I appreciate that. Thank you.

**MELISSA POLONCIC:** Yeah.

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

**PAHLS:** Thank you. Senator Flood gave you a compliment that he thinks you're doing a pretty good job.

**MELISSA POLONCIC:** Thank you.

**PAHLS:** What did you do before you became superintendent?

**MELISSA POLONCIC:** I was a principal--

**PAHLS:** At-- in which--

**MELISSA POLONCIC:** --elementary principal, Millard Public Schools.

**PAHLS:** Oh, my goodness. Did you hear that guys? Millard? I just had to get that plug in. Thank you. I appreciate it.

**MELISSA POLONCIC:** Yes.

**PAHLS:** She was good in Millard. She's even better [INAUDIBLE]

**LINEHAN:** Thank you, Senator Pahls. Other questions from the committee? Thank you for being here.

**MELISSA POLONCIC:** Yes. I'd be happy--

**LINEHAN:** [INAUDIBLE]

**MELISSA POLONCIC:** --to answer any questions, anytime. Thank you.

**LINEHAN:** Yes, I have some.

**MELISSA POLONCIC:** Oh, great.

**LINEHAN:** You have a very unique situation, DC West [INAUDIBLE]

**MELISSA POLONCIC:** Absolutely.

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**LINEHAN:** Do you know what percentage of your property valuation is TIFed?

**MELISSA POLONCIC:** Is TIF?

**LINEHAN:** Is TIF, like how of much your school valuation is under TIF.

**MELISSA POLONCIC:** Yes, we have about \$1.2 billion in our valuation this year and approximately-- boy, I shouldn't be spitting this out today, but--

**LINEHAN:** I understand that.

**MELISSA POLONCIC:** --it's under \$100 million, but there is quite a bit wrapped up into TIF, correct.

**LINEHAN:** And is much of that TIF, which would surprise, I think, those on the committee, on homes that contain children. The lake homes--

**MELISSA POLONCIC:** Yes, um-hum.

**LINEHAN:** --they're TIFed?

**MELISSA POLONCIC:** Yeah. Yeah.

**LINEHAN:** So they build houses, four-bedroom houses--

**MELISSA POLONCIC:** Sure.

**LINEHAN:** --and they're TIFed for 15 years while DC West has the kids but not the property taxes?

**MELISSA POLONCIC:** Yes, a portion-- a portion of those.

**LINEHAN:** Right. So she does do a great job. I've been there several times. She's really good and it was really smart of them to bring her to [INAUDIBLE] OK, anybody else have questions? Thank you very much.

**MELISSA POLONCIC:** Yes.

**LINEHAN:** Appreciate it.

**MELISSA POLONCIC:** Thank you.



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

**SUZANNE SAPP:** Good afternoon, Senator Linehan and members of the Revenue Committee. I am Suzanne Sapp, S-u-z-a-n-n-e S-a-p-p. I was just elected to my fifth term on the Board of Education at Ashland-Greenwood Public Schools, and I'm in my third year on the Nebraska Association of School Board legislative committee. I am here on behalf of Ashland-Greenwood Schools and the Nebraska Association of School Boards in opposition to LB523. I'm opposed to this bill because of what I've experienced in the past 16-plus years I've been on the board at AG, I feel as elected officials we know the best needs of our district. The local control of the special building fund has allowed us to prepare for upcoming building projects. We have successfully used the special building fund in two bonds, which I didn't put in there, but the-- the time that I've been on the board. The first one was in 2009 and just recently in November of 2020. The 2009 bond was passed for \$6 million for additions and remodeling on both our elementary and middle school/high schools. Several years before that, we knew a bond was in or near future, so we began to levy more into our special buildings fund with \$0.08 being the highest amount we put in there. We were able to keep the property tax rate during that time steady at a \$1.09 because of the increase in property valuations. With the funds we had saved for the district, the increase in valuation and the promise to take that spec-- special buildings fund back down to zero cents, we were able to propose and pass that bond at a levy-neutral amount of \$1.09. This bond allowed us enough extra classroom and cafeteria space to buy us time for the growth we knew would eventually hit us; 2016 is when it hit us. Our district began to grow and has continued at an average rate of 6.7 percent per year and has shown no signs of slowing down. Once again, in anticipation of another bond, we began to levy the special buildings fund for the first time since 2008 and put-- started putting in \$0.035. During that time, we listened to our constituents and we lowered our tax rate down from \$1.09 to \$1.04. At the rate we were growing. We began to hold town hall meetings and allowed our patrons to voice their opinions on what our bond should look like, how much land we'd purchase, whether we'd put a-- build one or two buildings. The next four years, we could continue to increase the amount we levied into the building fund. And once again, with increase in property tax valuations, we were able to continue to lower the property tax rate. In 2020, when we presented

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the proposed \$59.9 million bond, we were levying \$0.12 in the building fund and our tax rate was down to \$0.995. We told our constituents that with the passing of the bond, we would once again take the building fund levy back down to zero cents. Our bond passed due to our due diligence over the years of keeping a handle on our budget, increase in valuation, and the money we have saved in the building fund. Our final asking for the \$59.9 million bond will be no higher than \$1.01. Without the use of the building fund, I do not believe that this much-needed bond to help our overcapacity buildings would have passed. In August, when we were putting together our yearly budget, we left the \$0.12 in the building fund and lowered our tax asking down to \$0.925. By doing this for one more year, we were able to buy 60 acres of land and were able to put down some on the cost of the project. We anticipate saving our at-- patrons interest for 30 years on \$3 million. Twenty-twenty was a difficult year for everyone and I, for one, appreciate the stance of our leadership in Nebraska who stood firm on the fact that we knew-- that they knew what was best for Nebraska because they live here. Passing a bond each time a project needs to move forward will present challenges that may get in the way of doing what we were elected to do: Put the students first. No matter how much you educate, misi-- misinformation will always be a part, as well as increased cost to promote and possibly do a special election. I lost my place. Sorry about that. School board members across the state, just like those of you on this committee, are all elected officials, and it is us to up [SIC] to answer our patrons who voted us in. If they're unhappy with the job we are doing, they will vote us out. They expect us to do what is right for our school district, not districts of South Sioux City or Elkhorn or even North Platte, but for our districts where we live, because we live there. Please allow us to continue to do what we know best for our schools. Thank you for your time.

**LINEHAN:** Thank you very much. Are there questions from the committee? Who's your superintendent?

**SUZANNE SAPP:** Jason Libal.

**LINEHAN:** And how is has-- is it Dr. Libal?

**SUZANNE SAPP:** No.

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**LINEHAN:** Mr. Libal, how long--

**SUZANNE SAPP:** He is-- this-- I believe this is his sixth year.

**LINEHAN:** So you have bonded. You've had those people on the  
[INAUDIBLE]

**SUZANNE SAPP:** Pardon?

**LINEHAN:** You have-- you have passed bonds?

**SUZANNE SAPP:** Yes. Since I've been on the board, this is the second bond we have passed.

**LINEHAN:** Second bond. And when you say valuation increases, I just-- I think I-- I've been to your school. I think I know this. It's-- it's not in-- it may be some increases in the property that's already there, but you're growing.

**SUZANNE SAPP:** Yes, we are. We--

**LINEHAN:** OK, so you have new houses, probably--

**SUZANNE SAPP:** Well, like I said earlier, we are growing at like a 6.7 percent rate.

**LINEHAN:** Point-seven percent?

**SUZANNE SAPP:** Six-- well, actually, our valuations are growing around closer to 10 percent. Our-- our students are growing at the 6.7 percent rate.

**LINEHAN:** Which makes you growing pretty fast because you're where you are.

**SUZANNE SAPP:** We are growing. We are growing very fast. There's--

**LINEHAN:** You have a lot of commuters who--

**SUZANNE SAPP:** --a lot of-- a lot of houses going up.

**LINEHAN:** --live in Omaha or work in Omaha. Yeah. OK. Are there other questions from the committee?

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**SUZANNE SAPP:** Thank you.

**LINEHAN:** Thank you very much for being here. Other opponents? Go ahead. Thank you.

**KYLE FISHER:** Good-- good afternoon. My name is Kyle Fisher, K-y-l-e F-i-s-h-e-r. I'm in my 11th year school board member of Springfield Platteview Community Schools. Good afternoon, Senator Linehan and members of the Revenue Committee. Thank you for providing this opportunity to speak on LB523 and the building fund. The building fund has been an essential part of Springfield Platteview as we continue our recovery from the learning community common levy. During that time, while up to reportedly 30 percent of our residents' taxes were going to other districts, our share of the funding was opened-- was open for budget-- budget operate-- operating budget only in all but perhaps one year. This was a significant impact on the rotation of up-- and updating of maintenance of equipment such as HVAC, parking lots, and other facility needs. Once the common levy was discontinued, and our levies have gone down since then, we have been using the building fund to show our residents that their funds are being used diligently and efficiently. There have been many updates completed and being wrapped up. This past May, our voters passed a bond for a new elementary school in Springfield to replace the current building and to have greater updates in the Westmont Elementary School, our other elem-- grade school. One concern of LB523 is the process of using bonds to replace the building fund. Bonding add-- ca-- adds and cost the needs of- that are currently within the building fund. Additionally, the building fund falls within the limitations of the \$1.05. There are additional controls in the system, as well, in place, such as budget limits, spending limits, and reserves limits. An impression of this bill is to remove the control from the local school boards and to add levels of requirements, which dissipates efficiency and increase cost, thus either raising taxes or diminishing the buildings over time. Local boards are elected by the same voters that you are, hold public budget hearings, and total-- and are totally accountable for their finan-- financial decisions and district infrastructure planning. If there is dissatisfaction how these school boards utilize the building fund, there already is a recourse for their constituents and voters in the next election. And on the other side of the handout shows our past and present property tax rates.

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**LINEHAN:** Thank you. Are there questions from the committee? You're a growing school district, too, aren't you?

**KYLE FISHER:** We are slowly growing right now as Sarpy County--

**LINEHAN:** [INAUDIBLE]

**KYLE FISHER:** We are on the south side of Sarpy County where there is not infrastructure yet at this time. All the subdivisions are on wells and septic tanks, but the county and the communities are working to overcome that issue and in the future, it'll will be a much faster growing--

**LINEHAN:** So you're on the other side of the ridge?

**KYLE FISHER:** Yeah, we're on the south side.

**LINEHAN:** Were there other questions? So-- but you passed a bond. You had a bond election that passed, didn't you?

**KYLE FISHER:** In May. This past May, we've passed a bond to build-- to replace the-- the grade school in Springfield that will expand from two rooms per grade to three rooms per grade.

**LINEHAN:** So you're not afraid of having a bond election?

**KYLE FISHER:** The-- when it's appropriate for that type of issue, we are not afraid to have that.

**LINEHAN:** OK. Thank you. Are there any other questions? Seeing none, thank you very much for being here, appreciate it.

**KYLE FISHER:** Thank you.

**LINEHAN:** Are there other opponents? Is there anyone wanting to speak in the neutral position? OK. We had two proponents letter-- excuse me, no written testimony was delivered this morning. We had two letters for the record, proponents, and two opponents. Senator Albrecht, would you like to close?

**ALBRECHT:** It is Friday, so we'll talk back here. I know I want to go home. How about you? OK, thank you very much for listening and being

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patient, and I appreciate all the testifiers. You know, the one thing that I really want to kind of talk about, and on page 11 and 12 of the actual bill--

**LINEHAN:** Green copy?

**ALBRECHT:** Green copy. It does indicate that the schools, on lines 29 through 31, I mean, right now, they-- major infrastructure updates on existing structures owned or leased by the school district, which is heating, ventilation, air conditioning, roofs and safety requirements and repairs they can make, and also within 1,200 square feet. They can take care of that already and under-- with values less than \$100,000. And so the QCPUF was something new to me. I didn't know either about that. So I learn something as well when I bring these bills, so I'm glad the test fighters are here. But I guess the bigger question is, you know, how do they-- how do some schools accumulate so much more money in this building fund than others? But, I mean, I, too, have been an elected official for a long time. And when I think about-- I don't care if it was a police station, a library, whatever, the bond issue is the pulse of the community. So when those bond issues fail, whether the-- whether that school board is good, bad, or indifferent, they're doing what they think is right. But when actions speak louder than words, at the-- at the voting booth, that's what makes the difference. We're-- we're just-- we're just squeezing people like no other. If it's warranted, it's one thing and they will vote for it. If it isn't, it'll be a resounding no and they'll have to go back to the drawing board. Like the first gal that came up to talk, I mean, they've done a great job. They heard what the people said and they went back and tried to figure out what they needed to do to make it right. So purpose for the bill, just to ease up on our property tax issues, and appreciate your time.

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

**PAHLS:** I have a question. I try to look at the total thing, and I'll just get outside the-- I know what you're going for. I'm not totally in disagreement with it. But, see, I could say-- there are people tell me that we don't need a new jail--

**ALBRECHT:** OK.

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**PAHLS:** --we don't need that, so maybe we ought to put that to the vote of the people. You see, there are so many-- because there's conflict on that. As I look back to the-- marijuana is a big issue with the 49 of us, but maybe we automatically ought to go that straight to the people. Gambling was a big issue here. The people voted for that.

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

**PAHLS:** We voted on the death penalty. The people says, no, we want that. Maybe there are certain issues--

**ALBRECHT:** And I think--

**PAHLS:** --that we even ask the people on.

**ALBRECHT:** And I do believe, since I've been down here in the four years, what we don't get accomplished on the floor of the Legislature, the people will take it to the vote of the people.

**PAHLS:** Well, and that's what--

**ALBRECHT:** And I think they should.

**PAHLS:** Yeah.

**ALBRECHT:** I mean, if we can't get things done--

**PAHLS:** Right.

**ALBRECHT:** --we'll find out. I mean, the gambling was a perfect example. It was a resounding no for a long time and then it passed, so--

**PAHLS:** Big time. Thank you.

**ALBRECHT:** Right.

**LINEHAN:** Thank you, Senator Pahls. Are there other questions from the committee? Would you be willing to work with-- and I'm never-- I'm afraid to say her name because I'm always afraid I'm not going to say it right, superintendent from DC West, Melissa Poloncic?

**ALBRECHT:** Sure.

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**LINEHAN:** Would you-- and the others that were here today?

**ALBRECHT:** Absolutely.

**LINEHAN:** Because I think they'd get-- and this goes back to the same old problem, right? We have 244 school districts. All the ones that came today are, I think-- no, not Ashland-Greenwood, but the other two in the learning community, so they had that issue to deal with, and then they're all growing school districts.

**ALBRECHT:** Right.

**LINEHAN:** So growing school districts, I think you agree, they face different--

**ALBRECHT:** Absolutely. I mean, my daughter's in Gretna and they have lots of needs.

**LINEHAN:** Then the challenge is then those that are shrinking.

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

**LINEHAN:** OK.

**ALBRECHT:** You bet.

**LINEHAN:** Other questions? Thank you very much for the bill.

**ALBRECHT:** You bet. Thanks.