

Transcript Prepared by Clerk of the Legislature Transcribers Office
Revenue Committee February 15, 2023
Rough Draft

von GILLERN: We want to welcome you to the Revenue Committee's public hearing. My name is Brad von Gillern. I'm from west Omaha and Elkhorn, representing Legislative District 4 and I'll be serving as the Vice Chair of the committee today. The committee will take up bills in the order that they are posted outside the hearing room. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. We do ask that you limit or eliminate handouts. If you're unable to attend a public hearing and would like your position stated for the record, you may submit your position and any comments using the Legislature's website by noon the day prior to the hearing. Letters emailed to a senator or staff member will not be a part of the permanent record. If you're unable to attend and testify at a public hearing due to a disability, you may use the Nebraska Legislature's website to submit written testimony in lieu of in-person testimony. To better facilitate today's proceedings, I'll ask that you follow these procedures. Please turn off all cell phones and other electronic devices. The order of testimony is the introducer, proponents, opponents, neutrals and then the closing remarks. If you'll be testifying, please complete the green form and hand it to the committee clerk when you come up to testify. If you have written materials that you'd like to, to-- you'd like distributed to the committee, please hand them to the page to distribute. We'll need 11 copies for all committee members and staff. If you need additional copies, please ask the page to make copies for you now. When you begin to testify, please state and spell your name for the record. Please be concise. It's my request that you limit your testimony today to three minutes. That's-- we're hoping to get out of here. I think we're all a little concerned about the weather this afternoon so I hope no one in the room is annoyed by that efficiency. So we'll stick to three-minute testimony today. The light will be green for two, yellow for one and then at red, please wrap up your comments. If there are many-- no, we're good there. If your remarks were reflected in previous testimony or if you'd like your position to be known, but do not wish to testify, please sign the white form in the back of the room and it will be included in the official record. Please speak directly into the microphone so our transcribers are able to hear your testimony clearly. I'd like to introduce committee staff. To my immediate left as Lyle Wheeler, to his left as Charles Hamilton. And to the far left is Tomas Weekly, our clerk. Committee members with us today will introduce themselves, beginning at my far right.

KAUTH: Kathleen Kauth, LD 31.

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MURMAN: Senator Dave Murman, District 38.

BOSTAR: Eliot Bostar, District 29.

ALBRECHT: Joni Albrecht, District 17.

LINEHAN: Lou Ann Linehan, District 39.

von GILLERN: Thank you and our pages today-- please stand-- are Amelia, who's a senior at UNL in political science and Kaitlyn, who's a junior at UNL in political science. Thanks for helping us out today. Please remember that senators may come and go during our hearing, as they may have bills to introduce during-- in other committees. In fact, Senator Dungan is unable to be here today. He is presenting in another committee. Please refrain from applause or other indications of support or opposition. For audience, the microphones in the room are not for amplification, but for recording purposes only. Lastly, we use electronic devices to distribute information. Therefore, you may see committee members referencing information on their electronic devices. Be assured that your presence here today and your testimony are important to us and a critical part of our state government. And with that, we will open testimony on LB602 and we'll welcome Senator Linehan.

LINEHAN: Thank you. Good afternoon, Vice Chair von Gillern and members of the Revenue Committee. I am Lou Ann Linehan, L-o-u A-n-n L-i-n-e-h-a-n. I'm from Legislative District 39. LB602 continues in the spirit of the Legislature in continuing to bring tax relief to Nebraskans in need. LB602 amends Nebraska Revised Statute Section 77-2716, which affords certain deductions and exemptions for federal income and retirement income. In general, LB602 is intended to assist our retirees who are on fixed income. Specifically, LB602 amends language to provide that retirement annuities and pensions included in federal adjusted gross income are eligible for deduction or exclusion to the amounts included, but not to exceed a total of \$50,000 in cumulative deductions with Social Security and military retirement income deductions. I'm providing to the page AM406. This amendment tailors LB602 to its original purpose. As drafted-- thank you-- as drafted, the bill afforded the deduction to all Nebraskans. AM406 corrects this drafting error and limits the deduction to those Nebraskans who are of the generally accepted retirement age of 65. For all these reasons, I request the committee approve and advance LB496 [SIC, AM406]. So I-- the-- I don't know. Is a draft near? Because as you all know, we had staff changing and-- but I-- the bill says-- is

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drafted at 55. I don't think we have the workforce in Nebraska that we can encourage people to retire at 55. So that's the main thing. And the reason I put the cap on it, we've done Social Security and we've done military retirement. So you could have somebody who I would use-- federal employee who is also in the military who also had a part time, so I did put the \$50,000 cap. If you-- and that follows other states and what they do. So with that, I'll take questions.

von GILLERN: Thank you. Any questions from the committee? Seeing none, thank you, Senator Linehan. And we'll invite proponent testimony for LB602. As the first testifier comes up, I just want to make note. LB602 and LB38 that we will hear later are very similar bills. If you would like your testimony to be recorded on behalf of both bills, either as a proponent or opponent, as neutral testimony, just please advise that when you're, when you're testifying. Thank you.

ROCKY WEBER: Mr. Vice Chairman, members of the Revenue Committee, my name is Rocky Weber, R-o-c-k-y W-e-b-e-r. I am the president and general counsel for the Nebraska Cooperative Council, representing Nebraska's agricultural marketing and supply cooperatives and several telephone and rural electric utility cooperatives as well. Because of the brief time, let me just get right to the point. Last year in Nebraska, our farmer-owned cooperatives employed just a little over 5,100 employees directly with a \$388 million payroll. As part of their benefit packages, nearly all of our cooperatives offer 401(k) plans in addition to a defined benefit pension plan known as the Co-op Retirement Plan, which is managed by United Benefits Group in Kansas City, Missouri. The vast share-- I would say 90 percent of the employees in Nebraska in the cooperatives are members of this plan. Required by the plan, the employee submits a 3 percent contribution of gross income with each payroll. And the employer, the cooperative, submits a 6.75 percent of each employee's gross income to contributions to this plan. In preparation for this hearing, I asked United Benefits Group to provide me information as to how co-op retirees would be affected by LB602. They informed me that approximately 3,000 retirees are currently receiving regular pension plan payments under the plan per year, and another 1,300 employees have--received lump sum payments on kind of a regular basis. Their analysis is that 4,300 persons living in the state of Nebraska would benefit from the tax breaks found in LB602. So in-- and that doesn't even count the number of people that would receive 401(k) retirement pay as well after their retirement. For these reasons, we support LB602. And I would like to add on a personal note, my wife and I are starting to determine what we're going to do as we retire. Our elderly

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mothers live here. Our children live here. We've lived all our lives in Nebraska. Our biggest issue as we talk about retirement is the taxes in Nebraska and whether we should go somewhere else and have a-- make a better living, have a, have a more sound retirement than we can in the state of Nebraska. So I urge a strong consideration of LB602. Thank you.

von GILLERN: Thank you. Questions from the committee? Seeing none, Mr. Weber, thank you for being here. Other proponents. Any other proponents? Any opponents that would like to speak regarding LB602?

HAROLD KLAEGE: Mr. Chairperson and members of the Revenue Committee, I'm here today to testify in opposition of LB602. My name is Harold Klaege, H-a-r-o-l-d K-l-a-e-g-e. Did I give you copies of every one to pass around? I did not. OK, that's what I thought. OK, you know-- and I represent NARFE today. I'm the president of it. It's the National Active or Retired Federal Associatie-- Federal Employees Association and we're dedicated to protecting and enhancing our earned benefits. As a public servant, I worked over 37 and a half years as an engineer with the Natural Resources Conservation Service. With 25 years in Nebraska, I designed terraces, animal waste systems, flood control dams, wetlands restoration and planned the Swan Creek watershed if anybody remembers that watershed. We were helping people helping the land. Now, my comments may not be accurate as it-- the bill has been amended and I don't know what the amendment is, but we were opposing the bill based on the following reasons. One, limiting the amount that can be reduced by adding subsection (14), (15) and (20) to \$50,000. When LB641 from the Governor was proposed, there was no limit there. Two, subsection (2) does not treat federal annuities fairly. It limits the amount to \$24,000 for those over age 65 compared to Social Security or military benefits. Social Security, you can, you know, start receiving their benefits from age 62, where you're limiting us to age 65. Subsection (20)(b)(ii) limits the amount to \$20,000 under the age of 65. Surviving spouses under the Social Security Act can get up to 71.5 percent at age 60. Section (20)(a) delays the start of our reductions to 2025, where LB641 would, would move it up to 2024, a full 100 percent. And to relate to the whole thing is I'm-- I was a public servant and we want to receive fair and equitable treatment. Also, my main retirement is my federal annuity. I'm not able to take Social Security because there's a windfall elimination program that the government, federal government puts on that we've been trying to get removed since '86 that the first \$500 of a payment per month is taken away. And my wife can't get any because my wife is not-- she didn't have her own-- her, her career was to be a stay-at-home mom and

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help our children. And since I worked in many different states, she traveled along with me. So some of those benefits aren't available to federal annuitants. In fact, I moved back here in '96 for my-- I'm done, right?

VON GILLERN: Thank you. Thank you for your testimony. Questions from the committee? Yes, Senator Murman.

MURMAN: Thanks for your testimony. So your opposition is only for federal employees or are there--

HAROLD KLAEGE: Yeah.

MURMAN: --limits--

HAROLD KLAEGE: I'm a federal--

MURMAN: --to federal also?

HAROLD KLAEGE: --federal employee. Well, the limits-- I guess we want to be treated fairly, OK? If you only have Social Security and you're going to limit it to \$50,000, then why not limit-- if I only have federal retirement, why not-- I have the same limit because I can't-- as a Civil Service Retirement System, I can't get much Social Security benefits because I never paid into it while I was working the 37 and a half years. And there's also a federal bill that-- the federal elimination program that limits the amount of-- it takes away the first \$525. If you did get Social Security, it takes that away and you never get it back. And it also eliminates my wife from getting anything. The other thing is a federal annuitant different than Social Security. If my wife-- she was a stay-at-home mom. She gets no-- she doesn't get half of my annuity like you would with Social Security. You could get up to half as, as a spouse. The only way she gets my annuity is when I die. I've paid 10 percent of my annuity to offer her an annuity afterwards. So there could-- a little bit different. You know, the federal government's annuities are not very nice, you know? And in fact, I lived in Kansas before. I moved back here only because my daughter had six-- five children between the ages of, at that time, two and seven. We came back to take care of her. We knew it was going to cost us \$3,000, \$4,000 a year because in Kansas, I didn't pay on my federal annuity and I'm thinking I may move back after the kids are older. Thank you.

MURMAN: Glad you're here now.

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HAROLD KLAEGE: Huh?

MURMAN: Glad you're here now at least.

von GILLERN: Mr. Klaege, hey-- one more. Any other questions? I do have one question for you. The-- it sounds like in conce-- like, to me that you are-- in concept, the bill you're in agreement with. It's the specifics of the cutoff ages, ages that--

HAROLD KLAEGE: And the amount that the NARFE--

von GILLERN: OK.

HAROLD KLAEGE: --that the federal employees have versus Social Security.

von GILLERN: OK.

HAROLD KLAEGE: You know, there's no limit. You know, if you're going to make a cutoff, make it fairly. If you're going to make a cutoff, make it a sum of all three. That's fine, but there is no-- in the bill, no cutoff for Social Security. There's no cutoff for military. It just says Section (13), (14) and,-- no, (14), (15) and (20) can't exceed a certain amount.

von GILLERN: OK.

HAROLD KLAEGE: And I'd like to see no cutoff on Section (20). And if you all want to, you know-- you're-- you, you have the dollars. You'll decide what that cutoff is, but we want to be treated fairly.

von GILLERN: Thank you. Thank you for that clarification. Any other questions? Seeing none, thank you for your testimony today. Any other opponents? Anyone who'd like to speak in the neutral capacity? No letters? Oh, thank you. For the record, we've received one proponent letter, two opponent letters and zero neutral testimony. So Senator Linehan would like to close?

LINEHAN: Thank you. First, let me thank Mr. Weber and Mr. Klaege for being here. Actually, the-- what I was trying to do with this bill is take care of federal retirees and it got a little bit away from me. So I understand where Mr. Klaege is coming from. I have other friends. I think in 1982-- I'm not sure if that's exact-- there was a deal where the federal employees used to be 100 percent on federal and they didn't pay in Social Security. So when they retired, they don't get

Social Security; they get a federal retirement. And we left them out because-- and it's people my age and older so it isn't fair. The reason I put the \$50,000 in, I got to the point where we need to-- and we're probably going to have to go back to-- or moving forward, we need to have some kind of lid on a total and probably if I could go back and redo things, we may have limited-- you can't do Social Security and military retirement and federal retirement. I don't know. And I'm also trying to control the fiscal note. But we do need to give the federal retirees who aren't getting any Social Security and weren't in the military, they need a break on the taxes or-- I think Mr. Klæge said-- they're going to give.

von GILLERN: Any questions from the committee? Seeing none, thank you, Senator Linehan. OK, we'll welcome testimony on LB416. Welcome, Senator Kauth. Welcome, Senator Kauth.

KAUTH: Good afternoon, Vice Chair von Gillern, members of the committee. My name is Kathleen Kauth, K-a-t-h-l-e-e-n K-a-u-t-h, and I represent District 31. I'm happy to sit before you today to discuss LB416, a bill I've introduced to modernize our tax code, increase our ability to compete with other states for a remote workforce and right a wrong that nearly every other state has already addressed. In many ways, things have returned to normal following the COVID pandemic, but it's clear that some things will never be the same. The fabric of our workforce as a nation and globally has changed. A leading name in research, Gallup, now estimates that more than 70 million U.S. workers can do their job working remotely. Many of them are. Fully remote work arrangements are expected to remain nearly triple compared to 2019 figures and hybrid work is expected to increase at over half of remote-capable workers. In Gallup's words, fully on-site work is expected to remain a relic of the past. In a state with a tight labor market and plenty of remote-capable jobs, our businesses are looking out of state to expand the hiring pool. With an in-state labor shortage of 50,000 and millions of Americans outside Nebraska's borders looking to work remotely, it's a great avenue to pursue, but our tax code has them at a competitive disadvantage with companies from other states looking to make those same hires. As it stands, Nebraska is one of just five states that retains the out-of-date convenience tax rule. In short, this provision of our tax code requires that nonresident workers performing services outside of the state for his or her convenience are subject to Nebraska income taxes if they're employed by a Nebraska business even if they never set foot in our state. This is, of course, in addition to the income taxes they must pay to the state in which they actually liv, effectively

subjecting them to a double tax. LB416 would exempt our remote workforce from paying Nebraska income taxes as long as they're performing work in our state for less than 30 days. There are specific exemptions for professional athletes and performing artists. As I mentioned, this is a measure that many other states have already taken, which leaves us at a significant competitive disadvantage to others tapping into the remote growing workforce. The National Taxpayer Union Foundation published their first remote obligations and mobility-- it's called the ROAM index-- at the beginning of this year. Nebraska scored a negative 2.7 on the ROAM index and it's gathered national attention. This is a quick excerpt from Forbes. Surprisingly, Nebraska, not known for poor tax policy, ranks 49th and is the only state besides Delaware with a negative score. Nebraska's low score is in part due to it being one of only four other states to have a convenience of employer rule. I'm sure you agree with me when I say that it is not the type of national attention we're looking for. Folks behind me testifying will be able to speak further on the importance of this change and the impact it will have on our businesses throughout Nebraska. I will tell you that at one point in my career history, my husband worked for a company in Iowa, but he actually was working in Missouri for part of that time and we were double taxed. It's not pleasant. It does eat away at your budget. So when we have people able to choose to work for our companies, we need to do everything we can to make sure they want to stay working for our companies. Any questions?

von GILLERN: Any questions from the committee? Seeing none, thank you, Senator Kauth. We will open for proponent testimony on LB416.

NICHOLAS BJORNSON: Good afternoon, Vice Chair and members of the Revenue Committee. For the record, my name is Nicholas Bjornson, N-i-c-h-o-l-a-s B-j-o-r-n-s-o-n. I'm grateful for the opportunity to testify this afternoon in support of LB416 to remove the application of Nebraska's convenience of the employer rule. I am testing on my own behalf and on behalf of the Greater Omaha and Lincoln Chamber of Commerce. I am a practicing tax attorney at the Koley Jessen law firm in Omaha, Nebraska, and I've represented many Nebraska-based employers regarding their tax obligations. Over the last couple of years, more and more Nebraska employers have been implementing a remote workforce. Even though Nebraska's convenience of the employer rule has been in place since 1974, the application of the rule in this changing remote work environment has caused significant confusion. I have received hundreds of calls and even more emails with particular confusion over the determination of the source of these remote workers'-- employees'

wages for unemployment insurance, income taxes and the employer's withholding obligations. For an example, for a remote employee working hundreds of miles away from Nebraska, the withholding insurance is sourced to the remote worker's home state. Their wages are sourced in Nebraska, applying the convenience of the employer rule, and the employee's home state, applying the place of performance rule. With the employee's home state sourcing the wages to their state and therefore not providing an offsetting credit to taxes paid in Nebraska, subjecting the employee to double taxation and yet not requiring the Nebraska employer to withhold Nebraska taxes, since the employee will never set foot in Nebraska. Retaining such a remote worker may be an uphill battle for the Nebraska employer. Elimination of Nebraska's convenience of the employer rule would address the dire need of making Nebraska's tax system more competitive and cohesive with other states that source wages to the location where the employee is providing their services. The number of states that apply the convenience of employer rule, as previously stated, has shrunk drastically over the years. At this time, outside of Nebraska, four other states, Connecticut, Delaware, New York and Pennsylvania, impose the convenience of the employer rule. I urge Nebraska to follow other forward-looking states with ending the convenience of the employer rule. This will place Nebraska employers on equal footing with the ever-attracting and growing remote workforce. This is an easy change for any state that wants to be known for sound tax policy. Regionally, none of our neighbors impose the convenience of the employer rule, making Nebraska the outlier. For all the above reasons, I urge the committee to adopt LB416 to remove the convenience of the employer rule in Nebraska. That concludes my prepared remarks. Thank you again for providing me the opportunity to testify and I'll be pleased to entertain any questions that the committee may have.

von GILLERN: Thank you. Questions from the committee? I have one question and if you don't know the answer, that's fine. Where would this move us on this ROAM index, without knowing a lot about the ROAM index and not being able to consume all this information?

NICHOLAS BJORNSON: Yeah. So the-- basically the ROAM index gave a five-point penalty for states that impose it so it at least directly increased it by five points getting out of the negative. So I mean, where it is in actual-- the rank, I'm not sure off the top of my head. But If you see a-- I think it's on the third page of the report. They kind of explained how they scored the fact that-- states that have the convenience of the employer rule.

von GILLERN: OK. All right. Any other questions? Mr. Bjornson, thank you for being here today.

NICHOLAS BJORNSON: Thanks.

von GILLERN: Other proponents.

STACY WATSON: Good afternoon, Vice Chairman von Gillern and the committee. My name is Stacey Watson, S-t-a-c-y W-a-t-s-o-n, and I am actually here testifying on behalf of Lutz and Company. I am a shareholder at Lutz and Company. We provide accounting, technology and other services and we just 100 percent prefer to hire in state. It's a little bit easier for our accountants, but it's become zero easy for technology people so we've had to start hiring out of state. But when we go out of state to hire a person, they want to-- and we have to say, well, technically, just so you know the rules, we're going to have to source your wages to Nebraska and then you're going to have to pay Nebraska income tax plus the state you're currently living in. If they're living in a state like Texas or South Dakota, they definitely don't want the job because now their taxes just increased 7 percent and decreased the wages we'd be paying them. And if they're living in a state like Iowa or other places, they aren't going to be allowed a credit. So if you have a 4 percent state rate in Iowa, which they're getting to, and we have a 7 percent state rate, we've now created an 11 percent tax rate for someone that has never, ever, ever set foot in the state. They're not going to come here. We don't train them here. And so we're having a really hard time hiring people. We can't get them in-state because they're just not staying, right? And so we have to go out of state and people aren't wanting to work for us because they're going to have a tax rate that either goes from zero to 7 or from 7 to something as high as-- I mean, imagine if we hired a California person. It's now 20 percent. So I just think this bill-- first of all, we don't want to be one of the five states, right? If you look at the list, generally, we don't want our tax policy to be anything close to New York's, right? Who actually wants to go and put a business down there? Nobody. We only do it for population purposes. And I mean, Connecticut and Delaware aren't business friendly either from that perspective. So we're in Nebraska. We want to be competitive around the states with us and we need to be able to hire people. And we can't do that with the convenience of the employer rule. So we ask that-- encourage you guys to pass this along so that we can have better tax policy in the state of Nebraska. I'd be happy to answer any questions. I know I normally come for sales tax, but I do love income tax as a side note.

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von GILLERN: Well, we're glad you're here today. Questions from the committee? Seeing none, thank you.

STACY WATSON: Thanks. Have a great day.

von GILLERN: Any other proponents? Good afternoon.

JOHN CEDERBERG: Good afternoon. I'm John Cederberg, J-o-h-n C-e-d-e-r-b-e-r-g. I'm a CPA account here in Lincoln and I'm appearing on behalf of myself. First of all, I'm definitely here in strong support of this bill. As I say at the beginning of my letter that's being handed out, it's an eminently sensible amount of the legislation. And particularly where we sit between Colorado, which pending perhaps legislation has a substantially lower rate than we do, and South Dakota and Wyoming, in this age of remote workers, it opens up a very promising employment opportunity for remote workers for us. And so this is something that needs to be done. I do express-- or discuss in my letter the one concern I have with it. As I read the bill, if you're in the state of Nebraska in connection with your employment for 29 days, you do not owe Nebraska any tax. If you are in the state of Nebraska for 30 days or 31 days, then you owe us 100 percent of your compensation for the year. This can create some issues, among other things, withholding retroactively for the rest of-- for the time the previous year when the employee was not going to be here if that 31 days was unexpected. There is one item that I should have probably put in the letter and did not and I will explain that. If you do not choose to go to the pro-rata taxation that I propose, then I would suggest that you should talk with counsel and with perhaps the Attorney General's Office. There are Supreme Court cases that strike down state efforts to double-tax income. One from 2015 that I'm particularly familiar with is Comptroller of Maryland v. Wynne. There was a previous one from Indiana. And by taxing backward the out-of-state income, assuming I read the bill correctly, I think we open ourselves up to a constitutional issue of taxing income over which we have no nexus and which it is, I believe, likely that the not-- the resident state of our remote employee would contest the credit. With that, I'd be perfectly happy to answer any questions you might have.

von GILLERN: Any questions from the committee? Seeing none, thank you for being here, Mr. Cederberg. Any other proponents? Good afternoon.

BRYAN SLONE: Vice Chair von Gillern and members of the Revenue Committee, thank you for this opportunity to testify. My name is Bryan

Slone, B-r-y-a-n S-l-o-n-e. I'm the president of the Nebraska Chamber of Commerce and Industry and I'm testifying on behalf of the Nebraska Chamber and the Nebraska Insurance Federation in support of LB416. I won't repeat a lot of what's been said. This convenience of the employer rule for which we are only one of five states that still applies it is a subjective test as to when remote workers will be taxed. Ten or 20 years ago, maybe it was administrable in today's environment with the number of remote workers in the-- and particularly the, the number of variations in remote work. It's almost impossible to, to apply fairly and justly. And as Mr. Cederberg indicated, it also potentially creates withholding problems in all its manifestations. As employers continue to, to go down this road, having a bright-line, objective rule like a 30-day rule, which is fairly consistent with the model rules that apply in most other states-- they're not all consistent, but that's-- this is where the trend is going-- gives employers and particularly employers in multiple states the ability to manage their employee base and use their systems in a way that they can create certainty both for the employee and the employer. And it's important that both the employer and employee have that opportunity. The bill is fairly straightforward. It basically states that unless it exceeds 30 days of, of being and working in Nebraska on behalf of the employer's activity, this, this convenience rule will not apply. My reading of this is it does not repeal the convenience rule. It just mainly creates a safe harbor of 30 days, which in, in most of the hybrid cases of truly remote work will solve the problem for everyone. If we do have cases beyond 30 days, then the convenience of the employer rule would still apply. And why that's important is the convenience of the employer rule basically says that where someone is working remotely, for the convenience of the employer, not their own convenience, they are not necessarily taxed in Nebraska. So there are still situations where employers require their employees to live outside and work outside of Nebraska and that would not change, at least my understanding of this bill. With that clarification, I'd be-- and certainly that would be the intent of this bill and that the the Department of Revenue would write regulations appropriately. With that, I'd be happy to take any questions.

von GILLERN: Questions from committee? I just want to make sure. I've got one, Mr. Slone. The-- you say it doesn't repeal the convenience rule, but it still applies. And you know well my history in the construction world. If I were to send somebody out of state to work on a project on a temporary basis, in that case, the convenience rule would still apply and therefore, you would not suggest repealing?

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BRYAN SLONE: Correct.

von GILLERN: I want to make sure--

BRYAN SLONE: The convenience of the employer rule was, was established really to suggest that where the employer is requiring it for their own convenience, you would not create this taxation. So there is, you know, still potential in that application because that happens time and again. Unfortunately, most states, many states and our state has narrowly construed that historically as to what is the convenience of the employer. So you still could get into fact-based situations if you had employees that were in Nebraska working for your company in Nebraska more than 30 days. And, and that's probably appropriate because there needs to be some sort of standard for those situations. And again, this could be a small percentage of those where you, you have people in the state more than 30 days. But it gives employees and employers rules, bright-line rules to base their payroll systems on.

von GILLERN: Very good. Any other questions? Seeing none, thank you for being here. Any other proponents? Any opponents that would like to speak regarding LB416? Seeing none, any neutral testifiers? Seeing none, Senator Kauth, we'll welcome you back to close. As she's approaching, we have two proponent letters, zero opponent letters and zero neutral for the file.

KAUTH: Thank you. I think this is a common-sense bill. This makes us more competitive, brings us in line with the other states around us. And I believe Senator Bostar has a bill, LB173, that will work in conjunction to iron out any of the, the things that were mentioned earlier. I would really like to see us taking every little step we can to build a better workforce, to build a better economic center here in Nebraska, to make sure people want to be here, want to stay here. So I would urge you to pass this bill and it'd be great if we could get it on consent. Thank you.

von GILLERN: All right, any questions from the committee? Seeing none, thank you. All right, with that, we'll close testimony on LB416 and we will open on LB38. Senator Blood.

BLOOD: So good afternoon to the members of the Revenue Committee. My name is Senator Carol Blood. That is spelled C-a-r-o-l B-l-o-o-d and I represent District 3, which is the western half of Bellevue and eastern Papillion, Nebraska. Thank you for the opportunity to bring forward LB38 regarding a tax exemption for federal retirees. I'm

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bringing forth this bill in order to bring tax relief for federal retirees residing in Nebraska. The number of federal retirees residing in Nebraska is approximately 13,980 and the total retired and active federal employees in Nebraska amounts to 28,193. Nebraska's top five employers include the United States Postal Service and the Department of Defense, not to mention the close to 1,400 federal employees involved in Nebraska's agriculture. So federal employees constitute a huge backbone for services for Nebraska taxpayers. Federal retirees that began working for a federal agency before 1984 are covered by the CSRS, or the Civil Service Retirement System. This retirement system requires them to pay 7 percent into the system, but are not covered by Social Security. Those employees that started after 1984 are covered under the Federal Employees Retirement System, FERS. This includes a combination of federal annuities, Social Security and a 401(k) type of plan. While Social Security taxes have been alleviated through LB873, 100 percent of federal annuities still are subject to Nebraska income tax. These annuities currently average out to \$2,317 per month for federal retirees. For those of you that are writing down, again, \$2,317 per month. Many states are discussing further measures to reduce their taxes on retirees, whether that is on Social Security or their annuities in order to retain residents and therefore revenue. Now, our neighbor state, Iowa, has already passed legislation for tax exemption on federal annuity, annuities for federal retirees. In 2022, the Iowa, Iowa Legislature eliminated state taxes on pensions beginning in 2023 for those over 55 years of age, including federal annuities. Previously, LB873 was passed to help with vital tax relief on Social Security, but for Nebraska to retain more retirees to remain in the state, we need to include tax exemption for federal annuities. Increasingly, retirees continue to be attracted to move to more tax-friendly states like Florida and Texas and Nebraska is falling behind. As cost of living expenses are rising for the "unforseeable" future, Nebraska needs to adapt to keep retirees residing and contributing to our state. I thank you for our time-- your time today and consideration for LB38. I'd encourage you to wait for additional questions in my closing, as I think I have some old people here testifying that know much more about the annuities than I do.

von GILLERN: Thank you, Senator Blood. I'm still obligated to ask if there's any questions, but I'm sure they'll be "courtesied" away. So seeing none, thank you and we'll invite proponents up to speak on LB38.

HAROLD KLAEGE: Sorry. Rules, rules and more rules, right?

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von GILLERN: That's what we're all about here.

HAROLD KLAEGE: Yeah, I know. Some of mine may be a repeat of what I said earlier, but--

von GILLERN: Well, our first rule is you have to state and spell your name.

HAROLD KLAEGE: Yeah, I know. I'm here today testifying in support of LB38. My name is Harold Klaege, H-a-r-o-l-d K-l-a-e-g-e, a good German name. The president-- I'm the president of the National Active and Retired Federal Employee Association in Nebraska. We're dedicated to protect and enhance their earned pay in retirement. And as I told you before, I worked 37 and a half years with the USDA and I attached a sheet to show you who we really are. If you look at the next sheet, it'll show all of the federal employees within the state, who they are. Whether they're your mailman, your IRS agent, your Social Security person, the National Park Service, Corps of Engineers. You know, we cover a whole [INAUDIBLE] of public service. You know, we're covered under the Civil Service Retirement System. And when I was covering under the retirement system, I paid 7 percent. I also actually paid one and-- 1.5 percent to get into Medicare. Back in the '60s, if a federal employee, you weren't allowed for Medicare. So they actually increased our, our rate so that we had to pay for Medicare. So we-- it covered into it. Approximately there's 13,900 annuitants and survivor annuitants. Now, we're not talking about-- you know, a survivor annuitant, all they can get is 55 percent of what the annuitant got. And they only get that based on if the annuitant paid. I pay almost 9 percent of my annuity every year for my, my wife. And you know if she passes on, she doesn't get it. I don't get it back. So I'm paying like an insurance policy. You know, and annuities like that, she talked-- Senator Blood talked about it's only \$2,317 a month. You know, we have a lot of people that are the survivors. And presently in the states, in Iowa, Kansas, Oklahoma, South Dakota, Wyoming, don't tax the federal side of the tax for annuities, even the, even the civil service or the FERS, which is the federal retirement system. They're not taxed on either part of it. And, you know, it's-- like I said, I came from Kansas and maybe I need to go back and save some money. I know it sounds bad. I'm not an original Nebraskan. I'm from Ohio, but I worked for, for this, for my agency and for all of the people in all the states I've been in. And we want the same fair tax reduction that Social Security recipients receive. That's what we're looking for is something similar where-- that was covered by LB602 earlier. So I thank you for your time.

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

BRIESE: Thank you, Vice Chair von Gillern and thanks for your testimony here today. Just a math question. How many annuitants or survivor, survivors are receiving \$2,317 per month? Do you know that?

HAROLD KLAEGE: I don't know that.

BRIESE: OK.

HAROLD KLAEGE: OPM doesn't give data out. You know, we're under oath. You know, they don't-- it's tough. Our national office has to give this, but they're very-- I can't tell you the breakdown between annuitants and survivor annuitants.

BRIESE: But the total is 30--

HAROLD KLAEGE: The total is.

BRIESE: --\$32 million.

HAROLD KLAEGE: Yeah, that's what they-- you know, they've reported and it averages out about \$2,300 a month.

BRIESE: OK. Thank you.

HAROLD KLAEGE: So if you want to figure it out at \$1,500 a month for annuitant and three-- \$3,500 for-- I mean \$3,500 for annuitant and \$1,500 for a survivor annuitant, that may come out to be that \$2,300, you know? But-- because we're talking the postman, you know, the guy that goes down the street every day.

BRIESE: Yeah.

HAROLD KLAEGE: You know, we're talking all the public servants that you see all the time. You know, that's, that's what we're here for. I enjoyed my career, proud of it. I helped-- I worked with agriculture and helped a lot of individuals, farmers out on the lands, kickin dirt with them, getting in the hog pen with them, you name it.

von GILLERN: Very good. Any other questions from committee? Yes, Senator Linehan.

LINEHAN: Thank you, Vice Chairman. So I understand the pre 1987-- so I was up by five years-- and their--

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HAROLD KLAEGE: I was off-- previously when I sent the letters out, I went back and researched again. It actually started in '87.

LINEHAN: OK. But your-- this bill, you're saying that people who are on the new system should not be paying either?

HAROLD KLAEGE: Just on-- only on their federal portion, which is half of what I would have gotten. They also get Social Security and, and, like, a 401(k).

LINEHAN: TSP.

HAROLD KLAEGE: And we don't want that. We-- that should be taxed normally. We're only--

LINEHAN: But they get Social Security too.

HAROLD KLAEGE: Well, except that we have some employees that got into both systems and if you don't have 30-- OK, I'm going to get technical on you.

LINEHAN: OK.

HAROLD KLAEGE: But if you don't have 30 years of good Social Security, you're not eligible to receive Social Security. So some of those employees that switched are now captured. They're trapped, OK?

LINEHAN: All right, we we'll-- yeah, it's complicated I really understand that.

HAROLD KLAEGE: It gets very complicated.

LINEHAN: OK, OK, but the-- but my thought on this-- and I appreciate very much Senator Blood bringing this bill because this is actually more what I was trying to do and didn't do it right. The people who are really getting, I think, treated unfairly right now is they don't get Social Security.

HAROLD KLAEGE: Right.

LINEHAN: They only get their federal retirement. So we're treating them very differently and they're in the same age group.

HAROLD KLAEGE: Yeah, like-- but in Kansas, they, they, they, they do them both. Oklahoma, they even do the new system. They do only that federal portion of the federal employees. The federal employees

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retirement system, new system, they still allow them to deduct that. Iowa allows you to do everything, even including your f401(k)s and everything else.

LINEHAN: OK. All right. I'm sorry. Thank you.

von GILLERN: Any other questions? Seeing none, thank you again for being here, Mr. Klaege.

HAROLD KLAEGE: No problem. I thank you for your time.

von GILLERN: Any other proponent testimony? Good afternoon.

CINDY HALL: Good afternoon. My name is Cindy Hall. That's C-i-n-d-y H-a-l-l. I want to thank you all for giving me the opportunity to visit with you this afternoon. I'm here to put a face on the people that are affected by your response to the proposed legislative bill. I began my career with the Agricultural Stabilization and Conservation Service in 1977 at age 21. I'd been out of college about ten months and was newly married. I'd had a few part-time jobs in college and a full-time job for a few months before I moved to Curtis in southwest Nebraska. I worked as a temporary employee for about five months when I was hired full time. Once I became full time, I joined the Civil Service Retirement System. I had very little time when I earned any Social Security. As a matter of fact, I've only recently acquired enough quarters, mostly as a real estate agent, to qualify for any Social Security, which will most likely be offset by the windfall elimination provision. I worked in Frontier, Sherman, Washington, Burt and Dodge Counties throughout my career and I retired nine years ago with 36 years of federal service. During this time, I served hundreds of farmers administering federal farm programs. And like it was said before, over the years, 7 percent of my pay went into the Civil Service Retirement System and I paid the 1.45 percent Medicare tax. I greatly appreciate the fact that you have given tax relief to many, many seniors who receive Social Security payments and I'm here to ask that you include those of us who retired under programs other than Social Security. Thank you for your time.

von GILLERN: Thank you for your testimony. Questions from the committee? Seeing none, Ms. Hall, thank you for being here today.

CINDY HALL: Thank you.

von GILLERN: Any other proponent testimony?

DENNIS SCHROEDER: Good afternoon. Dennis Schroeder, D-e-n-n-i-s S-c-h-r-o-e-d-e-r. I live at 15401 Adams Street, in Lincoln, Nebraska. That's Legislative District 2. I'm a federal government retiree underneath the Civil Service Retirement System, a system separate from Social Security. I'm here today asking for your support of LB38 for equal tax treatment for all retirees and eliminate the state tax for federal retirees. I worked 34 years for the USDA Natural Resource Conservation Service. I worked in seven field offices throughout the state. I provided assistance to landowners for erosion control, improved water quality and water quantity issues, all the resource concerns that are-- sustains what Nebraska agriculture is all about. I also assisted the Lower Platte South NRD in planning and the rehabilitation of flood control structures in the Salt Creek and Oak Creek watersheds that provide the flood protection to the city of Lincoln. Federal jobs and employees touch both rural and urban areas. Living in rural areas, you appreciate and understand the importance of small businesses and supporting local Nebraskans. As we all are challenged by inflation and balancing our finances, one thing that affects retirement spending is taxes. LB38 provides retirement support as well as an economic boost to federal retirees. The tax breaks will allow us to shop local and support small businesses in Nebraska as we balance our personal budgets. I hope our state can become tax friendlier to both retirees and young graduates. Currently, it was just listed [RECORDER MALFUNCTION] on the average, we lose 4,500 graduates out of the state every year to go someplace else and work. That is unfortunate, as federal agencies like NRCS and other state and federal agencies need this young talent. We need to establish a fair threshold for taxation. Federal retirees should be given the same taxation as those under Social Security or military retirement. You've been told numerous times already about the states bordering Nebraska that have the tax breaks. LB38 supports those breaks. LB38 provides a fair and equitable retirement for all retirees in this state, not just those who receive Social Security. I'll add I do not receive Social Security. My situation falls underneath the windfall elimination provisions, as has already been discussed. In summary, please support LB38. Provide retired federal government employees the same treatment as other retirees; a policy that is fair, equitable to everyone and an encouragement to stay living in Nebraska. Thank you for your time. Thank you for allowing me to testify.

von GILLERN: Thank you for being here. Questions from the Committee? Seeing none, Mr. Schroeder, thank you for your testimony.

DENNIS SCHROEDER: Thank you.

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von GILLERN: Other proponents?

CRAIG DERICKSON: Good afternoon. My name is Craig Derickson, C-r-a-i-g D-e-r-i-c-k-s-o-n. Thank you, Senator von Gillern and members of the Revenue Committee for allowing me time today to provide testimony in support of LB38. I'm a retired federal employee and I worked for the USDA Natural Resources Conservation Service for more than 35 years. During my career, I provided assistance to farmers and ranchers, to the natural resource districts and to local communities to help them protect and conserve our natural resources. I began my federal career in 1985 as a field soil scientist in Banner County, which is far out west along the Wyoming line. My wife and I moved there with our two small children at that time and that's where I began my career. I'm proud to say I've worked in several states, including Nebraska, North Dakota, Pennsylvania, Texas, Hawaii and our national office in Washington, D.C. And as you've heard from others, federal retirees in Nebraska are a pretty small number of retired public servants who worked for agencies whose mission is to help Nebraska citizens with important issues in need. They work for agencies like USDA, the Veterans Administration, the national park, Social Security, Army Corps of Engineers and others. Currently, 100 percent of the annuity benefits that federal retirees receive are subject to the Nebraska state income tax. In contrast, recipients of Social Security benefits will now be taxed at a much reduced rate by LB873 passed last year, which you all know that. So it's my intention today to just be here and be a voice for other retirees who aren't able to be here and just express to you the need for LB38 to provide fair treatment to our retirement. And again, in my letter, I quoted the same number of states that have provided that sort of an exemption. And in closing, I would just say that federal retirees would like to have their annuity benefits treated in a way that is similar, similar and comparable to that which Social Security recipients receive. Thank you for your time today and I'm happy to answer any questions.

von GILLERN: Very good. Thank you. Any questions from the committee? I only have one. You didn't drive in today from Banner County did you?

CRAIG DERICKSON: No, I didn't.

von GILLERN: OK. All right.

CRAIG DERICKSON: And I'm glad for it.

von GILLERN: I'd be worried about you getting home.

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CRAIG DERICKSON: Right.

von GILLERN: Thanks for being here today, Mr. Derickson.

CRAIG DERICKSON: All right. Thank you all.

von GILLERN: Any other proponent testimony?

JIM CULVER: Good afternoon. My name is Jim Culver, J-i-m C-u-l-v-e-r. I am pleased to be here this afternoon in support of LB38. I am a retired soil scientist from the Natural Resource Conservation Service, the U.S. Department of Agriculture, with over 40 years of service. During the period of 1971 to 1988, I was the Nebraska State Soil Scientist. I was responsible for the overall management of the soil survey program for the Natural Resource Conservation Service. There was a big push in the 1970s to accelerate the completion of soil surveys for all lands in Nebraska. County commissioners, county supervisors, local natural resource districts, or NRDs, and the state of Nebraska, through LB180, which was passed in 1975, provided additional dollars to hire more soil scientists to help the Natural Resource Conservation Soil Science. And we also work cooperatively with the conservation survey division at the University of Nebraska. Hired a lot of the soil scientists and they worked in the field collectively and we had a staff of probably 40 to 50 field soil scientists in counties throughout the state and the soil survey was completed quite effectively. And to my knowledge, currently, the county assessors in Nebraska use this basic soil data as one of the tools as they do their work on a yearly basis. I provide this rather detailed discussion to point out that federal retirees who receive federal annuities have worked in jobs in their careers that have added immeasurable value to Nebraska. The kinds of services of federal employees to help Nebraska are many. To name a few, they would include the U.S. Postal Service and we all get mail every day. And they also include people that do agriculture research, cost share, the Corps of Army Engineers are very effective in flood control and levees and things of those around Omaha and Lincoln. And in fact, the Holmes Lake here in Lincoln and the Zorinsky Lake over in Omaha are products of the Corps of Engineers in days past, built primarily for watershed protection and saving lives and things like that. But on the other hand, they provide a tremendous amount of recreation and other things to the people that live in those areas. So federal employees in education, home security, housing, urban development, Veterans Affairs, just a few of the federal agencies that contribute to quality of life in Nebraska. So my point is that many of the federal employees

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over the years have worked a good part of their career in Nebraska. So it seems reasonable that the federal annuities that they receive, receive the same income tax breaks as those planned for Social Security. I'll provide an illustration, for example, it's kind of up in the air, maybe. But if no changes are made and we do a fast-forward to five years-- that's 2028-- and I need gas in my car and I pull up to a Casey's station with gas pumps. So I get out pumping gas. And as I pump gas, I realize that I play-- I'm on federal annuities and I pay Nebraska's state income tax. And the person next to me, they're on a pump and they're paying-- they get Social Security and they pay no state income tax. And I go inside and the person that-- the manager, they're on Social Security and they pay no state income tax. So I guess I would appreciate, having spent most of my professional career working in Nebraska, that both myself and the person pumping gas next to me, that they're treated equally. Prior to my retirement, I was the director of the National Soil Survey Center, which included the National Soil Survey Lab and there was a staff of about 100 to 125 people and that's located here in Lincoln. Many of the people at the National Soil Survey Center come from all parts of the United States and some internationally. Often during coffee break, there was discussion about where people were going to retire. And unfortunately, Nebraska did not come out very well in those kinds of discussions. They were looking for states with little or no income tax. And in fact, a few of those people did just that. When they retired, they moved to other preferred states with less state taxes. So I would encourage your positive support of LB38 and would result in an approval as we go through the legislative process. So I wish to thank you for the excellent work that the venue committee does. And if there's any questions, I'd be more than happy to address them.

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

BRIESE: Thank you, Vice Chair, and thanks for your testimony here today. Not really a revenue related question, but the soil mapping that you speak of, when was that completed? From what year to what year did you get past all the counties?

JIM CULVER: Nebraska was very fortunate. Back in the early 1900s, 1903, 1905, if you go to the University of Nebraska Conservation Surveys or saw maps that are in Papillion, they were very small, like, inch to mile. And most of all the state was completed except for about four counties out in the Sandhills. In 19-- probably '53, there was an effort throughout the United States to map all lands and to publish

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the soil surveys. And so the fieldwork was-- a lot of fieldwork started in '53. And those soil science-- State Soil Scientist prior to me, Lloyd Mitchell, and he started in '53 and he worked till about '71. And I came in and then we had a lot of people working-- about three to four people in a county. It would take about four years to do the county. It was mapped and it was-- there was a process of quality control at the state level and there was a regional office that had to control it and there was a national system of classifying soils so it was very-- and if a soil was named in one spot, it couldn't be named someplace else. So there was a lot of quality control. And since then, the soils have all been digitized. The fieldwork was completed probably in about 1993 or somewhere in there. And since that time, it's all been digitized. So you can, can get online and put your location in. It will pull the soil map up, give you the property of the soil, crop yields. And it used for digital a-- in numerous kinds of purposes because I know I was over at the farm show here at the event center here this fall -- in December, the big one they have. And talking to one of the guys on land appraisal and I was surprised they had a nice brochure/booklet but they had in there they pulled out the, the detailed soil map and the guy I was visiting with, he knew more about the soils than I did almost. He knew the soils here and Kansas, which ones were good. And so it has a lot of value to a lot of people.

BRIESE: Oh yeah. Thank you.

JIM CULVER: And then and a lot of guys that worked at it-- and like Craig Derickson, one of the presenters earlier commented, he started out in social survey work, so.

BRIESE: Thank you for your work on that. That's a very valuable resource to a lot of people.

JIM CULVER: Yeah and it's a-- this discovers the whole discipline.

BRIESE: Yeah, you bet.

JIM CULVER: Thank you.

BRIESE: You bet.

von GILLERN: Mr. Culver, thank you for being here today.

JIM CULVER: Yeah.

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von GILLERN: Any other proponents? Are there any opponents that would like to speak? Any neutral testimony? Senator Blood, I invite you up to close. As you approach, we received 29 proponent letters, one opponent and no neutral.

BLOOD: That's a nice pile of letters, Vice Chair. I know for those of us are going to have to drive home in the snow eventually, I'm going to keep this short, so. But I do want to thank you for allowing us to come and speak to you today. I know that every year, Revenue has a pie that they have to divide up and it's not an easy task. But I also know that the one thing that you guys have been very good at is making sure that we don't leave Nebraskans behind. And clearly, as we look for ways to help Nebraskans keep more money in their pockets, we forgot a demographic. And it's an important demographic. And we heard some interesting stories about where folks have worked at and the things that they've done for us to make our lives better. And it is my hope that you look at this with, with the knowledge of knowing that you're going to make someone's life better, that they have not benefited from some of our past legislation. You'll also note that we did hand out an amendment and all that does is clarify some language in reference to the types of forms that these Nebraskans use when they have to deal with these issues. And we are open to some flexibility as well. If you see a pathway to at least moving things forward, I would rather have a pathway than nothing. So I hope you consider this, I appreciate your time today and I sincerely appreciate the folks who came out today to testify.

von GILLERN: Thank you. Any questions from the committee? Seeing none, Senator Blood, thank you for being here today.

BLOOD: Thank you.

von GILLERN: This will be a close our meeting of--