

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

**LINEHAN:** The Revenue Committee public hearing. My name is Lou Ann Linehan. I'm from Elkhorn, Nebraska, and represent the 39th Legislative District. I serve as Chair of this committee. The committee will take up the bills in order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. If you are unable to attend a public hearing and would like your position stated for the record, you must submit your writ-- written testimony by 5:00 p.m. the day prior to the hearing. To better facilitate today's proceeding, I ask that you abide by the following procedures. Please turn off your cell phones and other electronic devices. Move to chairs. It's not too crowded today, but generally goes a lot smoother if you're-- if you're going to testify if you're sitting in the front row. Because when you're all spread out, you have to look around who else is getting up, it's just if you could move to the front, that would be helpful. The order of testimony is introducer, proponents, opponents, and neutral and then closing remarks. If you will be testifying, please complete the green form and hand it to the committee clerk when you come up to testify. If you have written materials that you would like to distribute to the committee, please hand them to a page to distribute. And I'll introduce the pages in a second, if I have the pages' names. We need 11 copies for all committee members and staff. If you need additional copies, please ask a page to make copies for you now. When you begin to testify, please state and spell your name for the record. Please be concise. It is my request that you limit your testimony to five minutes and we will use a light system. So you have four minutes on green and then it goes yellow for a minute. So during that yellow light you should wrap up because I will ask you to stop when it turns red. 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 at 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. The committee staff I'd like to introduce to my right is legal counsel, Mary Jane Egr Edson. To my immediate left is research analyst, Kay Bergquist. And at the far end on the left is the committee clerk, Grant Latimer. And with that, I would like the senators who are here to please introduce themselves starting to my far right.

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**KOLTERMAN:** Senator Mark Kolterman: Seward, York, Polk Counties.

**GROENE:** Mike Groene.

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

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

**McCOLLISTER:** John McCollister. District 20, central Omaha.

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

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

**LINEHAN:** Our pages today, ladies, could you stand up. Oh, there's just Noa. Noa is going to be busy today. So Noa is a student at Doane. Thank you for being with us today, Noa. Please remember that senators may come and go during their hearing as they may have bills to introduce in other committees. Please refrain from applause or other indications of support or opposition. I'd also like to remind our committee members to speak directly into the microphones. Also for our audience, the microphones in the rooms are not for amplification, but for recording purposes only. Lastly, we are electronics equipped committee and information is provided electronically as well as some paper form. Therefore, you may see members referencing information on their electronic devices. Be assured that your presence here today and your testimony are important to us and critical to our state government. And with that, we will open on LB805. Senator Wayne.

**WAYNE:** Good afternoon, Chairwoman Linehan and members of the Revenue Committee. First, I'd like to say that this is a lot brighter room than usual. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which encompasses north Omaha and northeast Douglas County. We had this bill last year and the reason I reintroduced it because I think it's important when we start talking about tax credits on the body that this bill stays in front of people. This bill is straightforward. It allows ex-felons or felons who are recently released to claim a income tax reduction or employers to claim a income tax reduction up to 65 percent of their current wages over a 12-month period not to exceed \$20,000. It's pretty clear the objective of this bill, since I've been in this body, I've been focusing on reducing our recidivism rate and reentry into society for

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Revenue Committee January 29, 2020

ex-felons to be successful as possible as they reintroduce back into society. I also think over the last summer I spent a lot of time talking to businesses in my community and I actually have a community corrections and a correction facility in my community down by the airport. And what we found out is that there are many third shift, second shift jobs that are still available that we're having a hard time filling. And I think this also creates the opportunity to create a partnership with community corrections to allow them to go work and reduce some of the risk that they believe might be there by offering some type of tax incentive. So I think it's a way to help or for us to reduce our prison population by encouraging communities and businesses to work with Corrections to set up more community correction facilities such as in Grand Island or Norfolk where I also know that there are a couple industries who are looking for second and third shift and this will be a way to work with those communities and those businesses and Department of Corrections to employ these individuals. The fact of the matter is, 95 percent of people who are incarcerated will get out someday, and it's our duty to make sure we provide them with the tools to do so. And unfortunately, Corrections is having a lot of issues around programming. If you haven't heard about that, we can talk about that on the floor or over drinks or over coffee anytime. But there is a lot of issues around programming. So what we're trying to do is come up with a creative way to provide programming outside of the prison system and actually give people skills that they can work, live and put some money away if they're currently incarcerated but at least make a living so they don't go back to the way of life in which led them to be incarcerated. You'll hear from some local businesses and other people behind me who will support this effort. And with that, I will answer any questions or be here for closing.

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

**BRIESE:** Thank you, Chairman Linehan. And thank you, Senator Wayne, for joining us here today. Any other states use an incentive like this?

**WAYNE:** Yes, Texas, Iowa, Louisiana. But around our border state specifically is Iowa, Missouri. Kansas has a similar one, not as quite a 65 percent. Colorado offers a smaller one, around 50 percent, up to a little higher percentage wage, not 20, I think it's \$25,000. So pretty much every bordering state except for South Dakota, and that's

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Revenue Committee January 29, 2020

just because I failed to look into South Dakota. But mostly all the states around us who touch us have some similar program.

**BRIESE:** Is there any data out there on the effectiveness of this and encouraging, actually encourage people to hire felons?

**WAYNE:** So when we reached out to the Department of Labor in Iowa, their program is actually very underutilized. And they've been saying that their, based off of their data, their recidivism rate and permanent employer rate goes up around 20 or 30 percent. They're just confused on why more employers won't take advantage of it. And typically, it's because you know about the federal one. But you forget to check with the local one. So they're trying to do a better job of educating people on or businesses on this program. But what they've said is they've increased permanent employers or permanent employees with those businesses who engage in this and that they also have a 20 to 30 percent reduction in recidivism based off of that population that works.

**BRIESE:** OK. Thank you.

**LINEHAN:** Thank you, Senator Briese. Are there other questions from the committee? Senator Friesen and then Senator Groene.

**FRIESEN:** Thank you, Chairman Linehan. Senator Wayne, how is an employer supposed to know if they have a felon? Are they required to tell them or are they going to be able to document this?

**WAYNE:** Well, Senator McCollister had a bill on ban the box. So typically there is a check-- a check you check when-- when applying for your job. And so what they typically do after that, if you run a payroll company like ADP or Paychex, they have that employee and that manager or whoever does your payroll, call your and verify times, cases, and everything to make sure you qualify for the deduction.

**FRIESEN:** So there is a process that you can document.

**WAYNE:** There is a-- yes, there is a process.

**FRIESEN:** Thank you.

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

**WAYNE:** And let me just follow up real quick. Sorry, Senator Groene. Because they want you to match because the federal-- the federal tax

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

regulations already have this in place. And so they want to make sure you-- you're eligible for both. So they cover both during those interviews. And it's just basic documentation with the case and the sentence.

**LINEHAN:** Senator Groene.

**GROENE:** So what's the federal deduction, same 65 percent?

**WAYNE:** Theirs is based off of your percentage. And I don't think there's a cap. I have to go back and look and I'll get that to the committee by the end of today. Only reason I kind of just did this for my company, I forgot the number.

**GROENE:** It's not-- it's 100 percent?

**WAYNE:** No, up to a certain point, but I think it's higher than what we're doing.

**GROENE:** Higher than 65.

**WAYNE:** Yes.

**GROENE:** So you get the deduction. Like any business, that's the cost of business is wages. You basically get 100 or 65 percent of that person's wages as a deduction from your income.

**WAYNE:** For that one-- for that year. The federal, I believe, goes for two years. But again, I'll follow up with the committee after this hearing. So it's for that first year. And the reason is-- the reason we're concentrating on the first year is because within that first year is the highest chance of recidivism of people committing some type of crime again. So we want to get them fully engaged and fully employed. But after talking to businesses, even that community corrections, the way this bill is written still would apply. And I think it's a huge incentive and a huge partnership we can create with our prison system to fill jobs that currently can't be filled.

**GROENE:** So the federal adjusted gross is already adjusted once and we-- we tax off the federal adjusted and then we're going to lower that again with another reduction.

**WAYNE:** We would mirror the federal, yes, just like we do with the rest of our tax code. I believe our freshman year we tried to mirror our

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Revenue Committee January 29, 2020

personal income tax to match the federal, too. So it's-- we're in alignment with what we currently do.

**GROENE:** So there'd be two deductions, the federal one. So I guess. The federal one, isn't it big enough-- isn't it a big enough carrot for these employers to do this? Or is this just being nice and letting them double dip?

**WAYNE:** No. I don't know if it's about double dipping. I'm just saying that if we're trying to compete, particularly in the Omaha area with Council Bluffs and other places who are doing this, we should be able to complete-- compete. And part of the issue I have in my district is you don't have to cross the river. So there's a couple places literally in my district that are not across the river, but in Carter Lake that do take advantage of this, that rather than going to Lozier's or Airlite Plastics and they go down the street to PBS or something like that,

**GROENE:** You're talking about people with felonies right out of Corrections.

**WAYNE:** Correct. Because they can get better wages and it's not-- better for the company they can hire more competitively.

**GROENE:** Thank you.

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

**WAYNE:** And I'll have an answer for my closing.

**LINEHAN:** On the federal.

**WAYNE:** Yes.

**LINEHAN:** OK, that's helpful. All right. Thank you. The first proponent. Just come along. Thank you. Good afternoon.

**SCOTT SMITH:** Good afternoon, guys. My name is Scott Smith, S-m-i-t-h.

**LINEHAN:** Need to spell the first one, too, even though we have--

**SCOTT SMITH:** S-c-o-t-t, I apologize. So I was born and raised in Coeur d'Alene, Idaho; 2004 I graduated high school; went to the Air Force; started working on airplanes; did a bunch of deployments; 2008 I got

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

off active duty. I was stationed at Offutt; met a lady I now call my ex-wife. We have two kids together. Moved back to Washington State and I started-- I joined the Air Force there, Air National Guard started flying with them. In 2012, I came to Nebraska for interview with the Nebraska Air National Guard to be a pilot. And I got arrested and I ended up doing 5 years 102 days in Nebraska Department of Corrections. In March 2018, got out and I got off paper in August 2018. So today I'm a felon and I cannot tell you what it looks like to be on that other side of the table from an employer and telling them that you're a felon. And I would say over two dozen times I've been rejected for a job. Today I'm going to the University of Nebraska for-- to be a biological systems engineer. I'm about four semesters in now and it's been an incredible, incredible ride. I can tell you personally that if I didn't have some sort of income, I would have left a legal way of life. I have been offered on multiple, multiple occasions to haul drugs for other people if I want. I can make a lot of money doing it. That's the truth. We have to get people money in their bank accounts. When I say people, I mean felons. We have to get them jobs. And I don't know the fix to get everybody jobs. But I know this is a phenomenal step to work for it. If I can address Senator Groene's question, the answer is 9,600 for federal, 9,600.

**GROENE:** What do you mean?

**SCOTT SMITH:** Dollars, \$9,600 from the federal government. I don't think very many people who are getting out of prison within 12 months are making much more than, you know, \$25,000. So that really like-- it makes it so we don't have much of a tax liability, which is a big deal. I personally have two kids. I've now got my rights back. I've got my rights back to my children now. And every dollar matters when you get out of prison. It's a big deal. And so I just-- I'm here to support this bill. And I would ask you guys to really look at it. I've seen a lot of you people, you senators have been dealing with NDCS and I really appreciate you guys all your work. I think this is one more step that we can take to really move us forward. I think that was-- look at my notes just to make sure I didn't miss anything. I think this stuff is easy to track. I was going to tell you, I think this is a super easy thing to track and we can-- we can also track that from the federal government. You know, that's-- that's pretty much it [INAUDIBLE].

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

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

**McCOLLISTER:** Yeah. Thank you, Madam Chair. I've got a bill before Business and Labor Committee called ban the box. Would that have helped you in your employment search if you had been eliminated from that initial review that you go through?

**SCOTT SMITH:** So the ban the box I've found-- I found the ban the box, it only works for companies who are willing to hire felons. Right? They'll take it away. Who, if you're willing to hire a felon, you'll take the box away. But the ones who aren't willing to hire felons, they leave the box is what I found. I don't know. And I don't know if you're saying it would be like totally illegal because like the federal government, they-- I think they ban the box, didn't they? Well, we did here in Nebraska we ban the box, didn't we? Did we not?

**McCOLLISTER:** For governmental bodies.

**SCOTT SMITH:** For governmental bodies, right. And you're saying to do it for the general community is that what I hear you saying? Yeah. I think it would have helped because I believe that I present myself in a pretty decent way. And what I found is when I give my personal statement, I tell somebody who I am, and then they get to know me a little bit. They say something like, really, you're a felon? Why don't you have tattoos on your face or why aren't you saying the F bomb or why aren't you dropping the N-word? Does that make sense?

**McCOLLISTER:** Thank you.

**SCOTT SMITH:** Yeah.

**LINEHAN:** Other questions from the committee? Senator Friesen,

**FRIESEN:** Thank you, Chairman Linehan. So that was my question. I mean, you seem to have talent. It's not as though you come lacking skills. So you're saying just because you're a felon status that employers are turning you down. Do they-- do they not give you a chance because you've checked the box? They just don't want to deal with it?

**SCOTT SMITH:** It is the weirdest thing to me. And, you know, you'll call them. Yeah, we're looking for people. Hey, I've got this thing in my past. Oh, no, we're good. It is strictly because of the felony.

**FRIESEN:** Somebody with-- that-- that's lacking in the talents you have is going to have an extremely hard time.



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Revenue Committee January 29, 2020

**SCOTT SMITH:** Absolutely. I can't even imagine.

**FRIESEN:** Do you think. I mean, do we have to get the word out more that there are these tax credits for employers? Would that incentivize them enough or is it the lack of knowledge?

**SCOTT SMITH:** Interesting you ask that, Senator Friesen. I'll tell you I worked at a place called Sure Sound & Lighting out at Grand Island. I was building stages over the summer. They didn't even ask me if I was a felon so that they could get the federal tax credit. And they have-- they have a handful of felons working for them. And so I would-- I do think that we have an information distribution problem. And I think it would help. When I worked at Sysco Foods, they did ask and it was-- to answer your question that you asked Senator Wayne-- they just asked, hey, we have a voluntary process. We'd like you to just help us know if any of these fall in. So for me, I'm a veteran and I'm a felon. I'm homeless, things like that.

**FRIESEN:** I mean, I've in the past kind of been in favor of banning the box. I also want the employer to be able to ask you, but I want them to be able to meet you, not to just throw the application away because you checked the box. But again, I mean that with this-- with the unemployment rate we have, I find it hard to believe that someone with your skills is not hireable. To me, there's people out there looking for good people. You strike me as having the talents, whether you're a felon or not doesn't matter. I appreciate your comments.

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

**GROENE:** You mean. I thought this was just the employee-- employer tax deduction. You mentioned something about how much money the felon makes and they need a break on their taxes. This isn't for the felon.

**SCOTT SMITH:** I thought I heard earlier I thought there was going to be for us to be able to minimize our or to lower. But if not, then I retract that statement. I just thought, I thought there was part of it was for.

**GROENE:** This is for the wages paid by the tax or to the individual convicted of a felony.

**SCOTT SMITH:** OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

**GROENE:** So it seems like it's the-- but do you think anybody coming out of prison who wants to work can't find a job?

**SCOTT SMITH:** I think that it's really, really, really hard. And I think we have a social contract with each other to help each other get those jobs. And if-- if this little thing helps somebody get a job, it's going to really move us forward. The state of Nebraska has a huge liability to every single person who's incarcerated. And those numbers go down a lot, like I don't know how many couple thousand dollars this would cost the state of Nebraska. But I can tell you it's well over \$100,000 for me to sit over at NSP for one year.

**GROENE:** Thank you, sir.

**LINEHAN:** Thank you, Senator Groene. Are there other questions from the committee? Seeing none, thank you very much, Mr. Smith, for being here. Are there other proponents? Good afternoon.

**JOSH WALTJER:** Good afternoon, members of the Revenue Committee. My name is Josh Waltjer, spelled J-o-s-h W-a-l-t-j-e-r, and I'm a third year law student in the Nebraska College of Law Civil Clinic with a specific role in our Clean Slate project. I'm testifying, speaking in favor of LB805 as a citizen and not as a representative of the university. I'm here to support LB805 because of the positive impacts the bill would have on individuals with criminal records who have taken steps to improve their lives and want to contribute to society once again. Too often, Nebraskans who have made mistakes and pay their debt to society continue to be haunted by a criminal record that impedes their ability to reintegrate. One of the most detrimental effects that a criminal record has on an individual is how it affects the ability to regain employment. The goal of the corrections process is to introduce prior offenders to more productive and meaningful lifestyle. Unfortunately, because of the existence of a record forever labeling these individuals as criminals, they're sometimes never able to fully reintegrate because of the inability to pursue meaningful careers. LB805 provides a tax incentive for employers who give Nebraskans with criminal records a second chance. Employers are often wary of hiring individuals with a criminal record. However, many of these fears are misplaced as most felons in Nebraska are nonviolent offenders and even violent offenders who committed crimes many years ago who have fulfilled their sentences and are on a completely different path as a result of the corrections system doing its job. As someone who worked with ex-felons before attending law school, I can speak to the remorse many of these individuals feel for their prior

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

behavior and their genuine desire to become better people. By providing a tax break to employers on wages paid to individuals convicted of a felony, ex-felons applying for jobs are simply put on a level-- a level playing field. With these incentives, employers may be willing to overlook these individuals' prior criminal records and instead focus on their capabilities as potential employees. My section of the Law College's Clinic Program represents individuals with criminal records who have worked hard to improve their lives and address their past mistakes by maintaining clean records, seeking out jobs, and becoming productive members of society once again. LB805 provides a modest incentive for employers to give these individuals a second chance. The bill serves the dual purpose of providing a tax break to businesses, which will help the economy while also giving our past felons a second chance at a meaningful life. For the clients we represent in the clinic, the ability to obtain employment can be life changing. Given the numerous positive aspects of this bill, I respectfully request that you advance LB805. Thank you.

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

**JOSH WALTJER:** Thank you.

**LINEHAN:** Are there other proponents?

**JENNIFER CREAGER:** Senator Linehan, members of the committee, for the record, my name is Jennifer Creager, J-e-n-n-i-f-e-r C-r-e-a-g-e-r, the senior director of public policy at the Greater Omaha Chamber. I'm here today to offer our support for LB805. We thank Senator Wayne for bringing this to the committee for your consideration. Our support for LB805 is based on two main considerations. First, Nebraska's employers face a severe labor shortage. This hinders the full potential for growth that Nebraskans could be enjoying in this economic environment. Work force development, as you have heard, is a high priority for businesses across the state. And we know it's a high priority for the Legislature. Addressing this need will take many different approaches. Sometimes, though, all it might come down to is matching someone with an employer opening that door a little wider; and that's the essence of this proposal. Second, our Chamber is a community betterment organization. At its core, this means people. Our long-term vision revolves around three elements: people, place, and prosperity. This means providing people with opportunities. We have provided incentives for businesses to take a chance and locate and expand in Nebraska. Here we have the idea of providing an incentive to take a chance in

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

hiring where there admittedly might be some reluctance. Often construction is almost the default trade for those with felony convictions. Even that comes with great challenges. A person who cannot secure employment with an established contractor is left with starting his or her own firm that comes with its own challenges. When bidding on projects, they might be told they don't have the capacity or they don't know the ins and outs of all the paperwork, securing bonding, and financing and all of it is required to make successful bids. For our own part, our Chamber has a REACH program. This teaches small and emerging contractors what it takes to be ready-- ready for bidding, navigating in the process, building capacity, establishing a reputation. That by itself does not solve the problem, but it's one part of a solution. There's a lot we do to get people back into society after a prison term. We can provide education and job skills and counseling. What it ultimately takes, though, is affording them employment opportunities. LB805 is one way we can do that. It alone will not solve the problem. It is measured and limited, but it could make a difference for those at a critical point in their lives. Thank you and I'm happy to answer any questions.

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

**GROENE:** You said often the business community offers counseling and programs for the-- for their employees.

**JENNIFER CREAGER:** Yes.

**GROENE:** On-- what I hear from my employees on the blue collar, lower-end jobs, is I'll hire anybody if they can pass a drug test. And something about a felony and a drug test don't always go together because that's the first thing they pick up back when the nonviolent ones are drug charges.

**JENNIFER CREAGER:** Sure.

**GROENE:** So should we tie this to some type of they have to take a drug test every week? Or that the company has to show they used the savings to help these individuals stay off drugs?

**JENNIFER CREAGER:** Yeah, I mean, I think those are all considerations for the committee. But I also think what's important-- important to an

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

employer, they're going to put those programs in place to sort of monitor [INAUDIBLE]

**GROENE:** What I found, the felony isn't important; not passing the drug test is important.

**JENNIFER CREAGER:** I would just tell you anecdotally, I have two high school classmates and very good friends of mine who robbed five banks. Maybe some of you have heard the story because it's gotten a lot of press. One of them became an attorney, is now a law professor, very successful law professor at Georgetown Law School. The other one-- and they both served over 10 years in federal prison. The other one was unable to secure any kind of employment and had to start his own pool cleaning company. So for those two, it was really-- and their circumstances really weren't different. They just ended up two very different outcomes. So I think it's very circumstantial.

**GROENE:** Thank you.

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

**JENNIFER CREAGER:** Thank you.

**LINEHAN:** Other proponents.

**DANIELLE CONRAD:** Hi. Good afternoon. Chair Linehan, members of the committee, my name is Danielle Conrad. It's D-a-n-i-e-l-l-e Conrad, C-o-n-r-a-d, and I'm here today on behalf of the ACLU of Nebraska. We don't have an opportunity to visit you in Revenue all that often so this is a rare treat. Thank you for your time and attention and thank you to Senator Wayne for his leadership in reintroducing this important legislation to help improve our economy, to help address and dismantle our system of mass incarceration, and to address racial disparities that are inherent therein. Overall I just want to give you a couple of general policy topline about why the ACLU is in support of this. Our system of mass incarceration, which is no surprise to you all, has grown so unwieldy in Nebraska that about one in ten Nebraska kids will have a parent in the criminal justice system at some point. So think about that just generally from a family economic self-sufficiency perspective, what that means for the taxpayer burden and the sometimes lifetime collateral consequences that go along with that criminal system involvement, in civic engagement, in employment and housing and education and-- and into other aspects of their daily

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

life as well. So we have the second most overcrowded prison system in the country. That's a list you don't want to be on the top of as a state. And we can't talk about mass incarceration without talking about racial injustice as well. So about 15, 20 percent of Nebraskans are Nebraskans of color in our state prison system. Well over 40 percent of those that are incarcerated are Nebraskans of color. So it's important that-- that we keep those realities at the forefront of this policy discussion. One of the best things that we can do to stop the cycle of recidivism and in criminal behavior is to provide folks with meaningful employment to help them transition back into society as part of a robust reentry program. So the piece that Senator Wayne brings forward today is an important piece in that puzzle. We believe it would complement the existing federal programs, that it would align with other smart justice reforms that this Legislature has moved forward in recent years, including ban the box in the public sector, occupational job and licensing reform that has passed this body recently. And then other method-- measures that are before you to enhance job training and to support reentry. So overall, this is, I think, a idea whose time has come. And we would encourage your favorable consideration. Happy to answer any questions.

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

**GROENE:** What percentage of felons coming out of prison are on probation?

**DANIELLE CONRAD:** Well, I-- I don't have that right off the top of my head, Senator Groene, but I'd-- I'd be happy to circle back with you. Nebraska historically has had a higher than usual amount of folks that kind of jam out their time that don't have additional supervision after their period of incarceration.

**GROENE:** Didn't we change that, that we--

**DANIELLE CONRAD:** Some of that, that still happens today, unfortunately, and--

**GROENE:** Rather jam out than face the restrictions of probation?

**DANIELLE CONRAD:** Or sometimes they're not able to get the programs and services during the period of incarceration that would allow for them to be probation or parole eligible.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

**GROENE:** Wouldn't it be wise to tie this to felons that are on probation because we have the backup of the Probation Office, setting up work agreements with local companies and telling them they can get a tax relief if they work with Probation to find these individuals. Then we'd have the backup on the drug testing and then that would try to. I'm just thinking it would be a good--

**DANIELLE CONRAD:** Sure.

**GROENE:** --way to do it.

**DANIELLE CONRAD:** And I think Senator Wayne touched upon some of this in his opening, that that really critical inflection point, that point of reentry is really the most important to ensure that there's positive pro social behaviors and opportunities around returning citizens. So I don't, as I read the bill, I don't see anything that would preclude application for people that are still on paper, either through parole or probation or otherwise.

**GROENE:** Might be a incentive to those in prison yet that don't jam out, because what I hear is--

**DANIELLE CONRAD:** Yeah.

**GROENE:** --they jam out, they just don't want to be told what to do. They'd rather sit there. I know personally some testimony didn't have to get out and have restrictions on them. But wouldn't it be a better carrot to say, hey, if you want a job, you're gonna get a job if you go through probation?

**DANIELLE CONRAD:** Sure. And I think a lot of time there are, as part of a term of probation or parole, there is usually an employment requirement or-- or search at least that's a part of that. So I think this would align nicely with that existing policy.

**GROENE:** Tie it to probation. Thank you.

**DANIELLE CONRAD:** Yes.

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

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

**DANIELLE CONRAD:** This is so fun. Senator Groene used to come testify before Appropriations a lot so that I've never had a chance to be on the other side of the table from him. Thank you.

**LINEHAN:** Other proponents. No more proponents? Opponents. No opponents. Anyone testifying in a neutral position? No one in neutral. Senator Wayne, would you like to close?

**WAYNE:** And I will be brief, since this is now consent calendar with no opponents. [LAUGHTER] Just to answer a couple of questions. I did go back and look at some of the paperwork at the federal level. It's \$1,200 to \$1,900, but it's complicated because it's based off of the number of hours. So if you work more than 120 hours, you're at 25 percent of your qualified income. But if you go over 400 hours, you are at 40 percent. If you need to stretch to get to that 1960 hundred-- \$9,600. And the reason they do that is part based off of construction, because there's times in parts of the country where you don't have to work for four or five years. So they try to give that employer still that incentive to maybe bump up to 40 percent to still try to maximize their credit. But it's based off of hours. I want to go back to my first year we got the performance audit report. And in my first year I was on economic development task force. And out of those two reports came the focus of we as policymakers focusing on tax credits should look at the individual just as much as we look at the corporation, that we have a society that moves around a lot and we are trying to figure out how to keep people here in Nebraska and grow our own. And I believe this bill fits perfectly with that, that we're focused-- focusing on the individual while still giving the company the tax credit. I think it's when we talk about probation, I think we get a little confused. Most pro-- most felons are not on probation unless you have a Class IV felony. Other than that, once you go to prison, you're on what's called postsupervised release. And that's anywhere from nine months to two years. So there's still what we call on paper. But more importantly, we have communities that are looking at trying to fill manufacturing jobs, trying to fill these second and third shifts. And I believe this is a way that we can directly work with our Department of Corrections to create a program that allows companies to benefit this tax-- use this tax credit by allow people to work there. Part of the problem, Senator Groene, why most people jam out is because we don't have programming. The reason we don't have programming isn't necessarily because programming isn't being offered. But if you were to go to Tecumseh or NSP, the reason we don't have programming is because we don't have enough staff to escort people



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

back and forth to programming. So you have people who are eligible for parole for 3, 5, 10 years that never get it because they don't finish the class or even start the class that they need to complete before they can have parole. This language here is copied exactly from the Iowa model. So we took it from the Iowa model, Missouri was a little more complicated. This seems to be the most clear-cut and dry way of doing it. And that's where we copied it from. And they have seen benefit. So I want to end with a brief story of a friend of mine who I will keep nameless. When I put this on Facebook, he jumped all over and said, this is a great idea. Now me and him normally argue on Facebook quite a bit. I'm not the most conservative, but he's very conservative. And he shared that on his page and a whole bunch of conservatives started arguing about why-- why we should do this and why we shouldn't. And his argument is very simple from a conservative standpoint, just do the math. Right now, there are 5,500 people housed in prison in Nebraska. If we can reduce that-- and it cost about \$37,000 to \$40,000 per year to house them. If you do the math and you say we can just reduce it by 20 percent over the lifetime, that's about 40 thou-- \$40 million per year. If we just reduce it by 10 percent, that's only 500 people that don't go back into the system, we add 500 people from going into recidivism and committing a crime, that's two point-- \$2.03 million. That pays for itself in one year. We spend millions and millions of tax credits on corporations and this is a way that we can actually, through the long term, save dollars with our state. Now I know our Fiscal Office doesn't do that. We do static, not dynamic accounting. But if you just do the math and say 10 percent reduction, it pays for itself. And I think we can see that immediately. When I look at the construction industry, who is begging for people to work, when I look at other places just in my district who are begging people to work, this is an opportunity for them to take a risk. Because the fact of the matter is, is when you start hiring felons, your insurance does go up and this can help offset that risk. That is the reality. This is a way for us to give businesses the encouragement to hire these individuals when they're on paper or when they're recently off paper. And with that, I'll answer any questions.

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

**GROENE:** Why does your insurance go up, your liability or your health?

**WAYNE:** Liability. Your liability goes up, particularly if you-- the best example I use is McDonald's. As long as you have cash around and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

you hire individuals who might have a theft, insurance companies are going to say, ah, we're going to raise your rates. And that's just the fact of the matter. So they do go up and that's just a reality of where we are. You have to make sure you have extra training. To your point, though, about drug testing, if you're on paper, parole, postsupervised release, you are being drug tested. So this is-- it wouldn't-- wouldn't cause any problems there. But I do think we're given the credit to the employers. I don't know why we would drug test the employee. If that's the case, I'll add that amendment to LB720. We can drug test everybody anyway. [LAUGH]

**GROENE:** I like the bill, but I also understand we need to hel-- we need the help the felon too.

**WAYNE:** I understand that.

**GROENE:** I mean, a job isn't the only incentive that's going to keep him clean. Something has to keep him on weekends and at nights when the sun goes down and he-- and his friends show up. And tying it to probation and the drug test gives a full year maybe where the felon can say, no, friends go away. I can't. I got to pass a drug test. I got a job. I'm trying to help the felon.

**WAYNE:** Right.

**GROENE:** Because the job is not the only influence out there once the key opens and the door opens in the jail.

**WAYNE:** Well, study after study shows that the job is the number one important-- number one factor in whether somebody recid-- goes back to a life of crime or not. Here's why. If I walk out of prison and say I jam out and I don't have a job, who's the first person I call? The same friends that I grew up with. They're the ones who are going to pick me up from the prison and I'm already right back in the system. If I don't have a place to live, because we do have an issue, particularly across the state where you can't rent a house because they do-- or apartment because they do background checks. And if you have a felony and you can't, you can't go there. So where do you end up back? You end up back in the same situation that got you there around the same friends. The only way you get out of that is with a good-paying job. If you have a good paying job, you can now move out of the neighborhood that you were in and move yourself away from friends. And that's why this bill is so important to me, because it is

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

the only way that somebody can move themselves out of the conditions that put them in the situation that caused them to get incarcerated.

**GROENE:** This isn't the right place, it's in Judiciary Committee, but when you jam out, just like in the movies, you walk out with your coat over your shoulder and there's nobody back-- no support back home, no probation officer. And if you had a friend to pick you up, you're lucky.

**WAYNE:** Correct.

**GROENE:** That don't sound right to me. Anyway, thank you.

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

**FRIESEN:** So we have 50,000 job openings in the state that go unfilled. And if I'm an employer, you hire felons.

**WAYNE:** I do.

**FRIESEN:** You don't have any problem with that. You're-- you understand it better, but you hire people that will get your job done.

**WAYNE:** Correct.

**FRIESEN:** So employers to me, I mean, if we're short that many people, they should be just flocking to hire people. Now there's a lot of people that don't have the skills of the gentleman before. They're going to need training.

**WAYNE:** Correct.

**FRIESEN:** Do we put more money into training individuals like this or in tax credits just to hire them?

**WAYNE:** So if you talk--

**FRIESEN:** Evidently they don't have the skills or else I'd be out there hiring them. I don't have a--

**WAYNE:** So that depends on-- on the industry. So let's talk about construction, because that's kind of what I know. If I hire somebody green fresh off, it's gonna cost me more. They don't know the skills. They don't know how to be a carpenter. They don't know how to lay cement. So that's going to slow down productivity. If I can't make that up on the backside, I'm looking for somebody else. That's not

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

fair to the economy, but that is what it is from a business perspective. Otherwise, I lose. What this bill would do for people like me who are small businesses or even big businesses, it would incentivize them to hire people who are jammed out, who they can spend two to three months training, because I can recoup that cost. Because the fact of the matter is, is if I'm putting a parking lot down, I got to put so much down per day or I lose money. We do-- this bill won't necessarily affect me because we do hire felons. I don't get a tax credit for it, primarily because I don't want to go through the federal paperwork because I went through it once and it's-- it's difficult. It's very difficult. Just because the number of paperwork and where people live, and there's a whole bunch of other things that got to go [INAUDIBLE]. But to your point, I do think in a perfect system, in a perfect world, the employer would always match up to the employee. That's just not the case. Because if I'm a big company and I want to hire 50 people and 40 of them check the box felon, I do have to worry about my uninsured cost. I do have to worry about my workers' compensation costs going up. I do got to worry about in construction because they got an OSHA 10. If not, I know my insurance is coming up. So that means the first week of pay, I'm putting them in a class and they never even touch-- touch the field and I've got to eat all that costs. Otherwise my insurance goes up because not all my people are qualified to OSHA standards. So that-- that's where we're trying to say, here's an incentive. We've got a whole bunch of people who aren't getting the program in the system. We know that. They come out. Train them, hire them, they need to be on your job for a year and we'll give you a tax credit.

**FRIESEN:** OK. Thank you.

**LINEHAN:** Thank you, Senator Friesen. Are there other questions from the committee? I have one. I may not ask this right. But according to the Fiscal Office, they're saying it would be \$2.3 or almost 2.4 million. So I'm trying-- and if it's capped at \$20,000 per individual, are they thinking that 2,390 people would take care-- take advantage of this program? I mean, how did they come up with their number? Do you have any idea?

**WAYNE:** We had this conversation last year, too, with them. I'm not sure. I think what they did was base it-- that's around what Iowa is spending. And so my guess is they probably called around to see where other people were and figured it out that way. Because let's take construction, for example. That means you're making \$50,000, \$60,000 a

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

year, which nobody fresh off the gate is gonna be making that. I mean, if you're a foreman with 13, 14 years of experience, maybe. I don't know where they got their numbers. We tried to figure that out.

**LINEHAN:** Because it would be a lot. I mean, if you just said, OK, everything that qualifies can take advantage of it, unless my math is wrong, that means they're thinking that 2,390 people are going to get jobs and under this program.

**WAYNE:** Correct. So it would be--

**LINEHAN:** Does that seem high to you?

**WAYNE:** No. It seems like this is one of the greatest job creation bills in the Legislature. [LAUGHTER]

**LINEHAN:** It's another way to look at it. OK, thank you. Senator Groene.

**GROENE:** But, Senator Wayne, how many-- how many felons are released from prison every year?

**WAYNE:** Actually around 2,000. We released-- we release around 2,300 and put in around 2,500. That's why our rates are going up.

**GROENE:** So it's 100 percent. The Fiscal Office is figuring 100 percent of those people get a job.

**WAYNE:** I said it's the greatest job bill ever.

**GROENE:** I thought it was 4,000 or 5,000 and then they estimated half of them that would be practical. But you think it's--

**WAYNE:** So right now there's about 5,500 so it's-- it's half of that population.

**GROENE:** So each year would be the ones released because--

**WAYNE:** Correct.

**GROENE:** --it's the first year of being--

**WAYNE:** Correct.

**GROENE:** --released, right. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

**WAYNE:** So there will be statues of all of you if you pass this.

**LINEHAN:** Other questions? Did you have any other questions? Thank you very much--

**WAYNE:** Thank you.

**LINEHAN:** --for being here, Senator Wayne. Letters for the record we had none. So that closes the hearing on LB805 and we'll now open the hearing on LB865 and we get to hear from Senator Wayne again.

**WAYNE:** Good afternoon, Chairwoman Linehan and the Revenue Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which consists of north Omaha and northeast-- northeast Douglas County. This plan, this bill was last year, LB4-- 5-- LB545, which was passed by-- kicked out by this committee and passed. And it was part of a veto that had nothing to do with my bill. If you recall, the veto had nothing to do with my bill. But basically research indicates that even if small amounts of savings are associated with, I'm sorry, saving-- this is about a college savings account which the State Treasurer will be here to testify in more depth about their 529 plans. But research and research has indicated that those who participate in college savings plans have better educational outcomes across racial, across economic, across all lines associated with that data. And we were talking two years ago, Treasurer Murante and I, about the cliff effect. What the cliff effect is, is essentially what we were running into in my district, particularly the companies I work at or associate with is they would hire people at \$11 an hour. They would offer them a raise to \$13 or \$14 an hour and they would turn them down. The reason they would turn them down is because they would lose their child's savings or their child Title XX, their day care and they couldn't afford based off the \$3 more or \$2 more the cost of daycare versus the cost of the raise. So you had people literally stuck at entry level positions afraid to move forward. So through conversations with Treasurer Murante, we came up with a plan that if it's about the kid, since they're afraid of losing their Title XX, then why not take that raise part, that \$3, and put it in a child's savings account? And if we did that and told the state that they couldn't use that portion towards their state income to where they would lose their Medicaid benefits or their Title XX, then it would be a wash for everybody. And actually the child at the end of this would come out ahead. So that's what this whole bill is about. And just like a parent for retirement, families will save more and be more prepared if they take advantage of 529 plans. Even with

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

tax breaks, 529 plans are utilized, especially among lower income households. The idea behind this bill is simply what I just said. And with that, I will answer any questions.

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

**CRAWFORD:** Thank you, Chairwoman Linehan. And thank you, Senator Wayne. I think you recall last year with some of these bills we added language to clarify that the intent was that it was not to be used for K-12 programs. How would you feel about that kind of language in here?

**WAYNE:** I have no problem with that. Again, not my-- the purpose of this was just trying to eliminate that cliff effect. I know Senator McCollister has tried to work on that. And this was just a creative way to inform parents that if they put money towards their child in this particular way, that they can keep all their benefits that they're currently getting from the state and it wouldn't have a harmful effect. So I'd still be-- I'd be OK with that.

**CRAWFORD:** Thank you.

**LINEHAN:** Thank you, Senator Crawford. Are there other questions from the committee? Seeing none, thank you. And you'll stay to close, sir. Are there proponents?

**JOHN MURANTE:** Good afternoon, Chair Linehan. For the record, my name is John Murante, J-o-h-n M-u-r-a-n-t-e, and I am the Nebraska State Treasurer, here in support of LB865. I want to thank Senator Wayne for his ongoing support of NEST and the college savings program. And I want to thank all of you for the important work that you did last year to-- to increase access to our college savings program. Last year, when I stood or sat before you, I had mentioned that we had an enormous problem in NEST, that 80 percent of Nebraskans did not know what a 529 account was. Very difficult to invest in something if you're not familiar with it. And that there were a number of Nebraskans who, even if they were aware of our NEST 529 account, were not-- did not have an ability to access our college savings program. So with the legislation and the package that Senator Linehan, Senator Lindstrom, Senator Wayne, put together last year and passed, I have been able to go across the state of Nebraska over the last year. And it really opened doors and avenues for conversations for audiences that we otherwise would not have been able to communicate with, especially in greater Nebraska. Are-- the nine counties that had the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

greatest increase in penetration rate for our college savings program are all in greater Nebraska. First National, which is currently our program manager, and my office partnered with a number of nonprofits to get into nontraditional schools and households who otherwise would not have been communicating with our office about NEST 529 accounts. Since taking office, the amount of assets under NEST has increased by \$900 million and the amount the-- the rate in which Nebraskans are saving through NEST has increased by about \$4 million a quarter. So when you put all of that together, that is literally hundreds of millions of dollars in less student loan debt than our students are going to have to face over the course of their lives. What I consider LB865 to be is a continuation of that momentum. Certainly I don't believe that Nebraskans-- the state ought to be generating income tax revenue off of parents saving for their kids' college education. That's what this bill does. The provision of allowing the state income tax refunds to be rolled directly into a 529 account to me is a simple way to encourage Nebraskans to invest in 529 and to get those dollars invested. I would also state that over the course of the last year we conducted an RFP for the program management of-- of the College Savings Program. First National Bank, who had been our program manager for the last ten years, did not bid on-- on that contract. And the new contract has (A) a substantial reduction in program management fees. But (B) it includes provisions that as the trust grows, the fees continue to drop automatically. So the more we can incentivize money going into the trust, the lower the fees are going to be for everyone. And the benefit really reaches anyone, any of the 275,000 account holders that we currently have. So anything that we can do to spur that, it's a benefit to the people of Nebraska. It's a benefit to our account holders. It's a benefit to the state. And so I'd encourage you to advance LB865 and be happy to answer any questions that you might have.

**LINEHAN:** Thank you, Treasurer Murante. Did I see your hand, Senator Kolterman?

**KOLTERMAN:** Thank you, Senator Linehan. Treasurer Murante, you just alluded to the fact that you're going to change providers.

**JOHN MURANTE:** Um-hum.

**KOLTERMAN:** Was there a reason the current incumbent did not bid on that?



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

**JOHN MURANTE:** So their-- the statement that they put out was that they had evaluated their business model and just had decided that 529s was-- was not going to be part of what they wanted their business to do going forward.

**KOLTERMAN:** How many other bidders did you have?

**JOHN MURANTE:** There were four total bidders.

**KOLTERMAN:** All local or were there some out?

**JOHN MURANTE:** Two local, two national.

**KOLTERMAN:** OK. Thank you.

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

**McCOLLISTER:** Yeah. Thank you, Madam Chair. Treasurer Murante, apart from the \$132,000 for the programming, there's no cost to the state of Nebraska, no tax credits, no deductions or anything else. Is that correct?

**JOHN MURANTE:** So you'll have to forgive me. I don't have the fiscal note in front of me. This does not create-- what this does is it makes sure that employees are not getting charged income tax by virtue of getting a 529 contribution from their employer. In our conversations with the Department of Revenue, that's currently-- there-- there's no evidence that that's currently happening. So simply by saying we officially, as a matter of state policy, are not going to charge that going forward wouldn't have a loss of revenue by virtue of that.

**McCOLLISTER:** Well, the Department of Revenue estimates revenue to the General Fund as follows: no effect from '20-21, '21-22. But yet there's a \$641,000 effect in '22-23. Any idea what that, where that number is coming from?

**JOHN MURANTE:** So my understanding this was a little bit of-- and you're going to hear this a little bit on Senator La Grone's bill, which-- which is-- which is coming next-- which attempts to tackle the same problem, but in different ways. And what this bill does is basically it picks up where we started last year. Senator La Grone's is sort of the end of the negotiations that we left off with in the bill that was passed by the Legislature, but was ultimately vetoed by the Governor because of an unrelated, you might recall, the veterans

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

housing provision that was deemed to be unconstitutional. So what I just said I think is true. Their-- their position is that that wouldn't have a negative fiscal impact. It would have a cost for OCIO. And that's, I believe, what you'll see in the next fiscal impact. But I believe, if memory serves, what they were interpreting this to mean as it exists in this bill is it is a tax credit for the employers, which was not what the intent of the bill is. It's not to create a deduction, not a credit is not the right word. It's not to create a tax deduction for employers. It's to make sure that employees don't get charged the income tax. That's the intent of the bill, which is what I-- where we landed last year.

**McCOLLISTER:** So if I'm understanding what you're saying is that 641-- \$641,000 shouldn't be there.

**JOHN MURANTE:** I think-- I think if you look at what's on the next bill, that's going to be the case. Yes. But now that has an enormous fiscal note because of an unrelated subject matter. But, yes, that's-- that is my understanding. And to put it a different way, when the bill passed the Legislature last year, that was-- there was something like a \$60,000 OCIO charge. But the revenue loss to the state was deemed to have-- to be de minimis.

**McCOLLISTER:** Thank you.

**JOHN MURANTE:** So we'd like to pick up there, basically.

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

**FRIESEN:** Thank you, Chairwoman Linehan. OK. Going back to the iscal note and I see the \$641,000 there, and what this says to me without studying it too hard is that we've got some implementation dates to push it off and then \$641,000 in '22-23 and then it doubles and triples and quadruples from there. Am I wrong or?

**JOHN MURANTE:** Well, I think it goes back to the-- the miscommunication between the green copy of this bill, which is functionally the green copy of the bill where we started with last year, versus the bill that was passed. I sus-- if you go back to the fiscal note that was adopted with the bill that was passed, it ended up having, as I just told Senator McCollister, there was minimal fiscal impact in the \$60,000 OCIO costs. So as long-- as long as we're on the same page communicating that we have to get the language correct such that we

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

are not charging an employee for a 529 NEST contribution by their employer, then there shouldn't. I don't see how there would be a difference from where we ended last year. They're, as I understand it, what they're determining in LB865 is that we're creating a tax deduction for the employer.

**FRIESEN:** Right.

**JOHN MURANTE:** We're saying if the employer creates this-- this benefit, that the employer can deduct it off of the employer's taxes.

**FRIESEN:** Right.

**JOHN MURANTE:** And that's that's not the intent. So that's my understanding of where we left off last year.

**FRIESEN:** OK. Thank you.

**JOHN MURANTE:** But with that said, there were so many conversations with the Department of Revenue last year that it's-- it's been a long conversation.

**LINEHAN:** Senator Groene.

**GROENE:** How does the federal law-- how does the IRS make an employer handle this on a W-2? So it's part of your wages.

**JOHN MURANTE:** Uh-huh.

**GROENE:** They give you \$3,000 for your kid's--

**JOHN MURANTE:** Uh-huh.

**GROENE:** --school, NEST. That's a payment. So it should show up in a box somewhere,

**JOHN MURANTE:** It sh-- theoretically, yes. Then now-- the federal, again, this goes back to a year ago's conversation. The federal department-- Department of Revenue doesn't have clear guidance as to-- have not issued a ruling as to whether a 529 contribution constitutes income for an employee. And our state Department of Revenue hasn't done that either. The hitch about that is there has been legislation in the Congress to do on a federal level what LB865 attempts to do, which is to say it's not income.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

**GROENE:** If you're an employer, you're going to make sure if I give your employee \$3,000 it shows up as a deduction on his federal taxes. He's not going to write a check to these and then it's like money that never showed up in his tax returns. That employer is giving a benefit to an employee.

**JOHN MURANTE:** Yes.

**GROENE:** He's going to make sure that donation becomes off of his income, his net income, he pays taxes. How does he do that?

**JOHN MURANTE:** So under the status quo, it is to-- to-- if an employer gives-- if-- if-- if my employees at my-- at the State Treasurer's office, if-- if I decide to give a 529 benefit from the state to-- that's-- that's a bad example. An employer giving to an account owner who has a beneficiary, that is not tax deductible under NEST. Right now in order to get the tax deduction, you have to be the account owner. So if an employer puts money into an account that, at under current law, that is not tax deductible. There was a bill last year that would have made it tax deductible. It is tax deductible for Enable, but it's not tax deductible for NEST.

**GROENE:** Why wouldn't any employer in his right mind give him a bonus instead so he can deduct it from his income taxes?

**JOHN MURANTE:** Well, that's what Senator Wayne is attempting to address with this bill. It's why-- it's more why would an employee want that benefit? Well, if they're at their, if they're at a point in their income where they would lose benefits by virtue of taking a 529 benefit, if they were to lose their benefits by virtue of getting a cash raise, but not if they were to get a 529 benefit, they would be incentivized to-- the employee would be incentivized to ask for that money in the 529 account rather than a cash raise.

**GROENE:** Tell me if I'm wrong, on the \$641,000, you're hoping-- you're doing this so that employees will take their refund and put it in their NEST account.

**JOHN MURANTE:** Oh, yes, for the refund portion, yes.

**GROENE:** So that's income for next year. The way I read this fiscal note, there-- 5 percent of those people they expect would do that. Therefore, they're not paying income taxes the following year.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

**JOHN MURANTE:** Um-hum.

**GROENE:** That's where the-- that's where the fiscal note comes from.

**JOHN MURANTE:** Yeah. I don't-- I don't-- like I said, I don't have the fiscal note in front of me.

**GROENE:** [INAUDIBLE]

**JOHN MURANTE:** That-- that would-- that would have a fiscal impact. Right. It would incentivize people to make 529 contributions, which would make that portion tax deductible by virtue of having the refund.

**GROENE:** But if they took the refund, it shows up as income the following year on their taxes. Is that not true?

**JOHN MURANTE:** No, I don't. I don't--

**GROENE:** You itemize? What if you itemize?

**JOHN MURANTE:** Thinking deeply about this. So if I take my income tax refund and then put it into a NEST 529 account, would that constitute income? Is that what you're saying?

**GROENE:** It eliminates income from the following year?

**JOHN MURANTE:** Oh, yes. It creates an income tax deduction. Yes.

**GROENE:** And that's where the \$641,000.

**JOHN MURANTE:** Got it.

**LINEHAN:** Thank you, Senator Groene. Are there other questions from the committee? So I just have one. Just quickly, can you remind us because we talked about this last year, but it hasn't come up today, why these are important, not just because the-- I can't remember. There's statistics that you had about if a child has a savings account--

**JOHN MURANTE:** Sure.

**LINEHAN:** --how it affects them from K-12.

**JOHN MURANTE:** Absolutely.

**LINEHAN:** Can you just quickly go over those?

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Revenue Committee January 29, 2020

**JOHN MURANTE:** I'm happy to talk about that, Senator Linehan. I've been talking about it all year. So the statistics are really dramatic and it-- it will be clearly manifested in Meadowlark. I think five years from now, we're already going to be hearing from kindergarten teachers about how even a small amount of college savings changes children's behavior because it changes their outlooks. And the number one determining factor about whether a child is actually going to go to college is the parent's expectation on whether that child will go to college or not. It has nothing to do with the child itself. So when you give a-- what statistics have shown and Oklahoma did this, they created a study where they gave 1,000 kids \$1,000. They gave-- they took another 1,000 kids and didn't give them anything and just charted their lives. And they started doing this almost 15 years ago. And the kids who had some savings that were given to them at birth, they were four-- their-- their literacy rates were four times higher. Their dropout rates were five times lower. The amount that they continued saving for college, there were 16 times higher, 16 times more parents saving for college when they had a seeded 529 account versus when they had nothing. So you completely alter the perspective and the world view of something that maybe we all take for granted, which is, you know, I've got a three-year-old daughter at home. I fully expect that she's going to go on and go to college. And we're getting her early childhood education now so that she can be on the right course to go on and sort of be ahead of the game. That's the way we think about it because I went to college and my dad went to college, and that's just my world view. There's a lot of Nebraskans who don't have that world view and they don't know what it takes to go to college. And they view it as an unreachable star, an insurmountable obstacle. And to just have someone tell them that there is hope for the future, it really does. It has now demonstrated in a number of different states, it's not just Oklahoma at this point, that it really alters the decision making of kids from a very young age and it starts with their parents.

**LINEHAN:** Thank you very much, Senator-- Treasurer Murante. Other questions from the committee? Seeing none, thank-- oh, I'm sorry. Did you have one? Thank you very much for being here, appreciate it. Are there other proponents? Are there any opponents? Is there anyone in the neutral position? OK. Senator Wayne, would you-- waive closing. OK. Do we have-- we have no letters for the record. So that brings the close hearing on LB865. With that, we will open the hearing on LB1042. That went quicker than they thought. Good afternoon, Senator La Grone.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

**La GRONE:** Good afternoon. Thanks for having me.

**LINEHAN:** Absolutely.

**La GRONE:** So LB1042 is essentially-- I'll get to where it vary-- differs, but essentially a copy of the bill we passed last year, LB470. The fundamental promise of America is that everyone, regardless of who they are or where they grew up, has an opportunity to succeed. The important role that educational opportunity plays into one's success cannot be overstated. LB1042 will amend portions of the 529 savings program to expand educational opportunity for students in Nebraska. First, the bill eliminates the requirement that contributions to 529 accounts must be the registered participant of an account in order to get the tax deduction for contributing to the account. This change will allow grandparents and other family members, like aunts and uncles, to donate to a beneficiary's account without having up to-- without having to open an additional 529 account in order to get the deduction that they are already entitled to. In other words, it eliminates the red tape of mult-- of needing multiple accounts. Second, the bill ensures that employees whose employers contributed to their 529 accounts are not charged state income tax on those contributions that no employee loses their state aid benefits because the funds contributed by their employer to a 529 account. And then additionally, there were some definitional changes included in this bill to match changes in federal law. However, those changes are what resulted in the fiscal note. Thank you. And therefore, I do have an amendment to remove those sections to eliminate the fiscal note. So what we would be left with is-- in the bill is exactly what we passed last year, simply eliminating the requirement of multiple accounts and also preventing the cliff effect of employers' contributions to employees ending their state aid benefits. With that, I'd be happy to answer any questions.

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

**McCOLLISTER:** Yeah. Thank you, Madam Chair. There was a phrase added to the bill last year that indicated the intent was not to provide K-12 private education benefits. Is that-- will that occur in this bill as well?

**La GRONE:** I believe it is in there. I would need to find it. Basically, what we did-- not basically, what we did is we took the Final Reading version last year, which had that phrase in it and we added the updated federal definitions. But then the amendment would

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

take those-- changes the definitions out because they're causing the fiscal note. So if it was in there last year, it should be in there this year on Final Reading copy.

**McCOLLISTER:** Thank you.

**La GRONE:** If not, we can absolutely add it again, but I would be shocked if it wasn't.

**McCOLLISTER:** Good deal. Thank you.

**LINEHAN:** Thank you, Senator McCollister. Are there other questions from the committee? I don't know if you had a chance to study this, but there seems to be quite a difference between the Department of Revenue and the Fiscal Office's note. But I know you're going to get rid of all of that so maybe it's not even worth talking about.

**La GRONE:** I would simply mention that I don't really either agree with either, but we're in a short session and we need to move the bill. So we'll just take care of that by taking it out.

**LINEHAN:** OK.

**La GRONE:** All right.

**LINEHAN:** Other questions from the committee? Thank you very much.

**La GRONE:** Thank you.

**LINEHAN:** Are there proponents?

**JOHN MURANTE:** Good afternoon again, Chair Linehan. Again, for the record, my name is John Murante, J-o-h-n M-u-r-a-n-t-e. I'm the Nebraska State Treasurer, here to testify in support of LB1042. LB1042, in my conversations with Senator La Grone, really does two things. First, it goes back to the bill that was passed last year, that was passed unanimously last year, vetoed by the Governor because of an unrelated subject matter and enacts that. And second, and as difficult as this is going to be to believe, that in December of 2019, Congress acted in a bipartisan way to work together to move the nation forward in a productive way in a bill that was passed called the SECURE Act and signed by President Trump. What that did, among other things, was created new qualified withdrawals from 529 accounts across the country and made it permissive. The new qualified withdrawals that the SECURE Act came up with was expenses related to apprenticeship



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

costs and \$10,000 of student loan debt repayments over the course of a-- of an individual's lifetime. The logic was, and I get asked the question probably more than any other, what happens if I have 529 account savings and we don't spend all of it or my kid gets a scholarship and there's-- there is money left over? This, from Congress' point of view, was an effort to make 529s a little bit more flexible. As you see, the Fiscal Office has a dramatically more profound understanding of what that will do than either does the Congress or I can assure you any other state in the Union. But hopefully we will have an opportunity like just about every other change. And I would probably make a note at this point. This is going to continue happening where college savings is kind-- it's a good "feel good" issue on Capitol Hill. And it's something that people can kind of work together on in bipartisan ways. And so they're going to continue to find ways to expand 529s and make them more accessible. And then those ideas are gonna get pushed down to the states and they're going to sweep the country just like previous expansions have. And the other states who don't see the fiscal devastation that these ideas are going to cost are going to continue implementing them. And if I had a word of caution on-- on this front, it is going to be unlike almost any other state policy. This is literally a product that we are selling in competition with the 49 other states. So the more that Congress passes these things and the more they sweep the country and have other 529s accessible to things like apprenticeship costs and student loan debt repayment, et cetera, if we don't enact those, we just fall behind. Senator Kolterman asked me last year about the accessibility of 529s, and you really have to split it out. There's a big difference between what Congress allows for 529s generally speaking and what NEST provides for under Nebraska law specifically. And Nebraskans do not have to invest in NEST. So the more we are restrictive, all we're doing is incentivizing Nebraskans to go to another state and buy their-- their plans. So no single one of these things is going to be devastating to NEST. Every single one of them is going to be a trickle. But the more they start to add up, the more attractive other states are going to be. And that would be the-- the caution that I would have on each one of these individually is we will continue having the discussion. Congress is going to come up with more new and additional qualified withdrawals. It's just a matter of time. With that said, Senator La Grone's already offered to take those provisions out of this bill. I'll come back next year and say 35 other states have implemented this and they did not bankrupt their states and this is what the cost was to them. And then hopefully we'll have a little bit of better understanding of what these provisions and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

proposals actually cost. But until that time, getting what was passed last year enacted into law I think is a very good thing and it's a good step forward for the college savings program. I'd be happy to answer any questions.

**LINEHAN:** Senator Kolterman.

**KOLTERMAN:** So if you don't use it,--

**JOHN MURANTE:** Um-hum.

**KOLTERMAN:** You can transfer it to another beneficiary, can't you?

**JOHN MURANTE:** To a sibling, yes.

**KOLTERMAN:** Or you just pay the tax on it--

**JOHN MURANTE:** Could.

**KOLTERMAN:** --and go down the road with it. Is that correct?

**JOHN MURANTE:** Um-hum, yeah. It's not like the money-- it's locked up. But, yes, there's a penalty and you'd have to-- if you claimed the income tax deduction, the Department of Revenue would come to recapture that income tax deduction. So there's some penalties involved.

**LINEHAN:** Thank you, Senator Kolterman. Are there other questions? I think what you're saying, so we don't align ourselves with the federal because we've been going through this lately here in Nebraska.

**JOHN MURANTE:** Um-hum.

**LINEHAN:** So somebody starts to take the money out because of the federal law and they get-- they don't get hit with the tax from the IRS, but they're going to turn around and get hit with some kind of penalty or tax from the state of Nebraska because our laws aren't aligned with the federal law.

**JOHN MURANTE:** Sure. So because the-- the money is allowed to go tax free from-- from federal tax as well, there'd be no penalty from the federal government because it is a qualified withdrawal under the federal government. But if an individual took a Nebraska state income tax deduction and then attempted to use it for apprenticeship costs, that would be--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

**LINEHAN:** Taxed.

**JOHN MURANTE:** --unless that would be-- yeah. It would be a nonqualified withdrawal. So there'd be a penalty and the income tax recapture would be in play.

**LINEHAN:** OK, that's-- thank you, Senator Briese.

**BRIESE:** Yeah. Thank you and thanks again for bringing here or being here. Do you predict many states will consider tuition, excuse me, student loan repayment of qualified education expense? You think they'll go down that road?

**JOHN MURANTE:** I would say, first of all, I think the simple answer is yes. But the sarcastic answer would be if Congress can do it, literally anybody can do it. So they-- they came to the conclusion this was a good policy. And I would-- there already are states that have. Administratively, there are some states who don't put the-- the burden of what a qualified withdrawal is within the state statute. So some states have already done it. But I suspect by next year it is going to be the-- the overwhelming majority.

**BRIESE:** OK. Thank you.

**LINEHAN:** Thank you, Senator Briese. Other questions from the committee? Seeing none, thank you very much for being here. Other proponents. Are there any other proponents? Is there anyone opponent? Any opponents? Anyone in a neutral position?

**TIFFANY FRIESEN MILONE:** Good afternoon, Chairperson Linehan and members of the Revenue Committee. My name is Tiffany Friesen Milone and I'm policy director at OpenSky Policy Institute, T-i-f-f-a-n-y F-r-i-e-s-e-n M-i-l-o-n-e. We were going to come in in opposition, but I switched it to neutral based on the amendment that is expected. But I thought it was important to express our-- what we would have been opposed to in the bill as written, especially if it's going to come back. We would have come in opposition because it would have created a way for people to pass income through 529 accounts to gain short-term tax benefits. As it was drafted, the bill could have created a mechanism that a new tax benefit would be used not to encourage long-term savings, but rather as a mechanism to reduce taxable income in the short term. As an example, a taxpayer can invest \$10,000 in an account, deduct it from their taxes, and then turn around, withdraw that same amount to pay off an existing student loan, as there's no

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

requirement that funds stay in an account for any given amount of time. And this way, the savings plan isn't being utilized to generate long-term savings benefits, but instead as an immediate tax deduction to the taxpayer. Further, we have concerns with the-- the way the language around deducting employer contributions is structured. We have concerns that it create-- we have concerns that it would create a second \$10,000 cap. So you'd have a participant cap of \$10,000 where participant contributions would be deducted. Then you'd have a separate \$10,000 cap for employer contributions. So if that doesn't happen, I mean I think-- and Senator Wayne, he said that there was no evidence that-- that employer contributions were being included in AGI. So I'm not sure if we remain opposed to that or not. In any event, the language-- the language in LB1042 unamended goes beyond just bringing Nebraska's educational savings plan into sync with recent federal changes. It would also create a new state level tax deduction. We wouldn't support a further narrowing of our state's income tax base with the creation of a deduction for 529 contributions used to pay down student loan debt. If the goal is debt relief for students, we believe there are more efficient ways to provide it that would be more predictable from a state budgeting standpoint. With that, I'm happy to answer any questions.

**LINEHAN:** Thank you.

**TIFFANY FRIESEN MILONE:** Sorry, I'm a little gravelly. Things are happening.

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

**TIFFANY FRIESEN MILONE:** Thanks.

**LINEHAN:** Are there other people wishing to testify in a neutral position? We have no let-- letters for the record. So, Senator La Grone, would you like to close?

**La GRONE:** So I would completely agree with the State Treasurer's remarks as regarding to being concerned about the long-term competitiveness of the 529 program. But that's an issue we can take up in the future. The only other thing I would add is, Senator McCollister, I looked into your question while I was back there. And that language you're referring to is actually in Senator Lindstrom's bill, which passed. So that's actually current law.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee January 29, 2020

**LINEHAN:** Questions from the committee? I want-- I will have a question because I'm not sure how to ask this, but I do remember talking to an acquaintance about being worried and they said that it doesn't matter. I already have mine in Iowa. So if I-- if I want to tonight go out and buy a 529 for a grandchild or invest in a 529, I can do it in whatever state in the Union that best fits my tax situation.

**La GRONE:** Correct. So the only-- let's say I'm a Nebraskan and I want to buy a Florida plan. I would still get the federal tax benefits of that. I just would not be, obviously not be able to deduct it from my state taxes because I'm not paying any Florida state taxes. So the only way you would get a state tax benefit is if you're a Nebraska or someone who's paying Nebraska income tax.

**LINEHAN:** OK. All right. But you can-- you are free to go wherever according to federal law.

**La GRONE:** Correct.

**LINEHAN:** And that's why you're worried about Nebraska being competitive with other states.

**La GRONE:** Correct.

**LINEHAN:** OK. That's helpful. All right. Other questions? With that, we'll draw the hearing on LB1042 to close. Thank you all for being here, appreciate it. And I think we are going to go to Exec committee.