LINEHAN [00:00:02] Welcome to 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 the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation 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 written testimony by 5:00 p.m., the day prior to the hearing. To better, 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 the chairs-- and this is very helpful-- if you'll move, when you're ready to testify, move to the chairs in the front of the room. The order of testimony is: introducer; proponents; opponents; 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 and you would like to distribute to the committee, please hand them to the page to distribute; and I'll introduce the pages in a second. We need 11 copies for all committee members and staff. If you need additional copies, please ask the page to make you copies now. When you begin to testify, please state and spell both your last and your first name for the record. Please be concise. It's my request that you limit-- how many people are here to testify today? OK. We'll limit testimony to five minutes. We will use the light system, so you have four minutes on green and, when it turns yellow, you need to wrap up. 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 that our transcribers are able to hear your testimony clearly. I will now introduce the committee staff. To my immediate right is legal counsel Mary Jane Egr Edson. To my immediate left is research analyst Kay Bergquist and, on my left at the far end of the table, is committee clerk Grant Latimer. And now I would like the senators to introduce themselves, starting with, to my-- Mark.

KOLTERMAN [00:02:22] Senator Mark Kolterman, District 24: York, Seward, and Polk Counties.

LINDSTROM [00:02:28] Brett Lindstrom, District 18: northwest Omaha.

FRIESEN [00:02:30] Curt Friesen, District 34: Hamilton, Merrick, Nance, and part of Hall County.

CRAWFORD [00:02:35] Good afternoon. Senator Sue Crawford, District 45, which is Eastern Sarpy County.

BRIESE [00:02:37] Tom Briese, District 41.

LINEHAN [00:02:41] I think the other senators-- we're kind of wrapping up here, so we've got senators, probably introducing bills in other committees, that may come and go. I'm actually leaving at 3:00 today, and Senator Friesen is going to take over. Our pages are Noa and Erin. Is Erin not here today? So Noa, from Central City, Nebraska. She's at Doane, majoring in history and political science. Refrain from applause or-- 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 room are not for amplification, but for recording purposes only. Lastly, we are an electronics-equipped committee, and information is provided electronically as well as in paper form. Therefore, you may see committee members referencing information on their electronic devices. Be assured that your presence here today and your testimony are important to us and critical to state government. So with that, we will start with Senator Wishart, with LB1162. Welcome, Senator Wishart.

WISHART [00:03:49] Well, good afternoon, Chairwoman Linehan. Members of the Revenue Committee, my name is Anna Wishart, A-n-n-a W-i-s-h-a-r-t, and I represent the 27th District in west Lincoln. I'm here today to introduce LB1162. LB1162 would create the Fueling Station Tax Credit Act, which provides for a nontransferable and nonrefundable income tax credit for those taxpayers who construct a comprehensive statewide electric vehicle charging station network within the years 2020 and 2021. The bill also sets a reporting requirement for such taxpayers, with an annual report to be submitted to the Department of Environment and Energy. Data reported for each charging station would include: the number of charging events; unique vehicles charged; total kilowatt hours dispensed for each charging event; and average kilowatt hours dispensed for all charging events. This is critical data that will help us better understand EV utilization, trends, and how to address infrastructure costs as our markets move towards EV saturation. Let me be clear. Electric vehicles are here and market saturation is coming. Within the next ten years, 50 percent of cars and light-duty

trucks on the road will be electric. Auto manufacturers and investors are pouring in hundreds of billions of dollars into creating EVs. Ford, for example, is coming out with an EV F-150 next year that will be a competitive price, which makes me really excited because I've always wanted a truck. We need to start incentivizing the infrastructure necessary to meet the growing demand of Nebraskans who purchase EVs at Nebraska car dealers, while also being smart about how we meet the revenue demands of infrastructure as we continue to lose revenue once gained by the gas tax. First, let's talk about infrastructure revenue. This summer, I met with the general contractors to discuss a growing concern about a continued national trend in decline of revenue for gas taxes and infrastructure investments. I've spoken also with director of transportation about this, as well, and addressed my concerns with him. What will happen if we don't start incentivizing convenience stores and private businesses developing EV infrastructure is that we will have more EVs in our state without having the ability to capture the revenue needed to address wear and tear on our roads and bridges. You can't have a gas tax without gas stations. You can't have EV revenue without charging stations. The future, if we do not move forward on this, is that the revenue needed to make up the difference in our loss in gas tax will be made up by Nebraskans in our state alone, and we will be unable to capture all of the vehicles traveling through our state and the revenue off of that. Now let's talk about the economic and consumer benefits. My vision for this bill is to incentivize private entities-- I think of our local convenience stores-- to be able to build out infrastructure continue-- so that they can continue to be the one-stop shop for all someone needs as they fuel their car, no matter what type of car it is. That is why the bill specifically defines a qualified alternative-fuel fueling station as a metered-for-fee, which ensures that the stations are designed with all EVs in mind and are not limited to proprietary chargers. And I believe we've passed out an amendment to you, or have given you an amendment that comes from the New Car and Truck Dealers, that would solidify this intent of mine. One of the largest obstacles to electric vehicle consumer adoption is range anxiety, or the concern of running out of charge while you are out on the road and nowhere close to home. And I know there are parts of our state where, if somebody is traveling through it with an electric vehicle, they would have to build in an extra day of travel in order to be able to charge appropriately. That's just-- that's not good for Nebraska in terms of our infrastructure and our consumers. A comprehensive charging station network, with stations roughly every 25 to 50 miles, would alleviate these range anxiety fears. Without a legitimate network of charging stations, Nebraska will miss out as a-- as car manufacturers and dealers and

consumers will not sell EVs or-- or purchase them in the state at the scale that other states will. The data-reporting requirement portion of this bill is intended to keep us moving forward and to have accurate information on how, when, and where Nebraskans are charging their vehicles. Again, this data can be very helpful when the next wave of EVs, such as semitrucks, come into play. Testimony behind me will detail how a comprehensive EV charging station network is feasible in this short amount of time, and how Nebraskans can be on the cutting edge of mod-- modernizing our transportation and making sure we continue to invest in infrastructure. I'm happy to answer any questions. And we will have some experts following, as well, that can get into the details about how this actually works.

LINEHAN [00:08:39] Thank you, Senator Wishart. Are there questions from the committee? Seeing none--

GROENE [00:08:44] I have one.

LINEHAN [00:08:44] Senator Groene.

GROENE [00:08:46] Now this is electrical, where they plug in with electrical, too, or is this ethanol or--

WISHART [00:08:51] Electric.

GROENE [00:08:53] Out of curiosity, what do they charge now?

WISHART [00:08:55] What does a-- a charging station charge?

GROENE [00:08:58] I stay at hotels sometimes, and they got this bay, which is there a fee for charging your like--

WISHART [00:09:01] It totally depends. So they can't charge per kilowatt hour. So a lot of times they charge, like, per the time that you plug in. But it depends. There will be those following me who actually run these. They can talk to it. But--

GROENE [00:09:15] Why, why can't they charge per kilowatt?

WISHART [00:09:18] Well, in Nebraska, you can't.

GROENE [00:09:20] Do we need to change that?

WISHART [00:09:23] I-- I don't imagine so. We were in talks with NPPD to ensure that all of this is-- works within our public power system.

GROENE [00:09:33] All right. Thank you.

LINEHAN [00:09:34] Thank you, Senator Groene. Are there other questions from the committee? Seeing none, thank you very much. First, we'll have proponents. Are there proponents?

DAVID JANKOWSKY [00:10:01] This is probably a good height. Chairwoman Linehan, members of the committee, thank you very much for having me here today. My name is David Jankowsky; last name is J-a-n-k-o-w-s-k-y. So I am the founder of Francis Energy. We are a five-year-old company, so we're quite young, and we are based out of Tulsa, Oklahoma. We are owners and operators of what they call direct current fast charging stations. So these are not the stations that you might be familiar with that might be in certain of your districts that are what we call Level 2 charging systems. Those systems charge cars in about four to eight hours, depending on the vehicle charging. Our chargers are different. They're what you call Level 3s. So they are, in-- in common, kind of, parlance, superchargers. So they will charge a car anywhere from 7 minutes to 90 minutes, depending on the application. So in Oklahoma, what we accomplished last year is, we built 109 stations, strategically placed across the state. So every 25 to 50 miles in Oklahoma now has a supercharger. There are 225 superchargers across 109 sites in Oklahoma, making Oklahoma number one per capita in supercharging stations in the nation, and it is the first comprehensive statewide network in the country. We did that predominantly by focusing on the rural areas. So Oklahoma is obviously very rural, except for Oklahoma City and Tulsa. So 80 to 85 percent of all of our stations are in rural areas. So how we developed this network is, we went into rural areas, very-- in Oklahoma, certainly very downtrodden and depressed areas. And one of the problems that they have in these small towns and small communities is the electric-- sorry-- vehicles are staying on the highways and the turnpikes and they're not coming into the downtowns like they used to do with local gas stations. So we go into these towns and we put in, not a 7-minute charger, but a 60- to 90-minute charger. Obviously, that keeps somebody captive in that town for 60 to 90 minutes. So that

is one economic development benefit for the local community, but that's a small piece of it. The major piece of it is, by putting in a charging station into a small community, what you're doing is you're basically giving people permission, in those communities, to buy an electric vehicle when they become available. When you do that, what's going to happen is they are going to go home and charge their car at home at night. And the industry standard that everyone's coalesced around is about 80 to 90 percent of the time, you're charging at home at night. Well, when you do that, you've just increased that home's electrical bill by about 30 to 35 percent per car. So if a home has two, you're almost doubling the electrical requirement for that home. So that is a complete boon to the munis and the co-ops in the rural areas. Certainly in Oklahoma, the co-ops are hurting, both from population decrease, high-efficiency appliances, the whole thing. And that is causing rates in those areas to go up because there's just not enough electrical demand. This solves that issue, literally, in one fell swoop. And the Oklahoma utilities obviously understood this and championed this in 2018, when we started to push it in Oklahoma. They understand that this is the way to save a lot of their-- their-- their community co-ops and munis, because you're just electrifying more things and that's good for the utilities. So that's how we developed the network, mostly, in rural areas. But we did it based on a tax credit that existed in Oklahoma. This is not-- you need a public-private partnership to build out a skeleton network. The economics of these chargers-- just as an example, for the seven-minute charger, that costs about $420,000. And to answer your question, Senator, how much are we charging? It's not really us. Kind of the market is-- is there, and--

GROENE [00:14:30] Is that a pun-- how much are you charging? [LAUGHTER]

DAVID JANKOWSKY [00:14:33] Sorry. Yeah, yeah. I've probably said that so many times. I didn't realize it was a good pun. So point being, we're-- we're-- to go from a 10 percent to an 85 percent charge will cost on a turnpike maybe $18 to $20, and if you're in a small rural area and spending more time on the charger, it could cost about $15, $16 to fill up your electric car. So, OK, how do we pay for all this? My time is up.

LINEHAN [00:15:03] Yeah, so it's--

DAVID JANKOWSKY [00:15:03] So I'm hoping we're going to have a question about it. [LAUGHTER]

LINEHAN [00:15:04] We may have some questions. I'm guessing we might have some questions.

DAVID JANKOWSKY [00:15:08] Thank you very much.

LINEHAN [00:15:09] Are there questions from the committee? Senator Lindstrom.

LINDSTROM [00:15:10] Thank you, Chairman Linehan. I'll ask a question. Thanks for being here, Mr. Jankowsky.

DAVID JANKOWSKY [00:15:16] Thank you.

LINDSTROM [00:15:16] Can you talk a little bit about the revenue that can be generated from these stations?

DAVID JANKOWSKY [00:15:20] Yes. OK. So in Oklahoma, with a $30 million tax credit-- which, at the end of the day, is what it costs the state, so a $40 million asset, the state put in $30 million worth of tax credits, and other companies put in $10 million. That generated, just from a GDP perspective over 20 years, just a macro GDP, over $250 million over 20 years, so that just general GDP could be expected to increase because of all the infrastructure, for the most part, that you're putting in. And it's not only the infrastructure, it's also the electrical-- basically the 20 years of buying a significant amount of electricity that's also included, the goods and services part of that GDP equation. We hired a economist from the University of Missouri, a very conservative economist, to help us look at these numbers in every state, because there's not a lot of data that's out there. Tesla guards their data, everyone else doesn't really give it out. So there's not a lot of good information. So we hired this economist and he looked at every state. And so for, specifically, Nebraska-- and we're happy to share this with the entire committee. It's about a 27-page report, but we also have a very high-level summary, which we can hand out to all of you at the end of this. But what it shows is, effectively 30-- if-- if you structured this right, and in order to structure it right, you also have to look at what just exactly-- like Senator Wishart was saying, how do we pay for this? What we are advocating, in every state, is to say, you have to set the EV permit fee in your state higher than what combustion engine vehicle drivers are currently paying in your state. Why? Well, first of all, that creates a perfect market incentive for any state to say, hey, we get paid more

per dollar per car for an EV than we do over a combustion engine vehicle. That kind of makes good policy sense. And the reason why, whether it's a $100 fee or a $150 fee, at the end of the day, it really doesn't matter because what Nebraska, if you enact a tax credit, what you all have just done is built out a network that now gives people permission to buy cars, because they will not buy cars in Nebraska if they're going to suffer from range anxiety; they're not going to buy cars. But once they do buy cars, they're going to save anywhere between $1,200 in Nebraska to $2,000, depending on how far you drive, and that is in obviously massively reduced fuel cost, because, again, we're only charging $15, and then avoided maintenance. So there's only about 20 moving parts in an electric vehicle, so there's very little maintenance at the end of the day. So you save a boatload of money. That's discretionary income back in people's pockets. Out of that discretionary income that just magically appeared by buying an EV, you can pay for the roads and the infrastructure. We think that's a perfect market dynamic. So if you set that number at slightly higher than what combustion engine vehicle drivers currently pay today, what you're doing is setting yourself up for just an acceleration of highway trust funds and local funds that will continue to accelerate on a parabolic curve, based on EVs coming into the market, because that's the way EVs are going to come to the market, too, on a kind of a parabolic curve. And that is-- that is-- the reason for that is, there's two real inflection points for when we see electric vehicles coming into the market. One is the F-150 all-electric; it's coming out in Q1, 2021, so that's 11 months from now. The second is battery pack prices in vehicles have come down considerably, and they will continue to come down considerably. And they're about, you know, 30, 40 percent of the total cost of the car. So you really have to look at that to see where cars are coming. We think by 2023, you're going to start seeing-- 2024, early 2024-- you're going to start seeing cars that are $35,000 cars, with 300-plus mile ranges. That's a huge inflection point for the industry. Our point is, it's going to take two or three months-- or two or three years to build out, really two years to build out this network, so that's the end of 2021 going into 2022. That's when you want to have a network, because that's when people are going to start adopting electric vehicles in Nebraska. So that's the-- that's going to increase highway trust funds. It's going to increase GDP. But the other issue is, how do you capture out-of-state drivers? So we've been-- in Oklahoma and Kansas, that's easy because we have turnpikes. So we'll-- you know, you hook in with the-- with the turnpikes, and if you're an out-of-state driver going through a gantry, $2 surcharge. Well, we can't do that in Nebraska. So we have an idea where, on our charger-- so again, these are-- these are smart chargers. That's why they're so expensive. There's very

sophisticated software inside of them. And what this software can do, as an example, is hook up to the Nebraska DMV through an API. So the only information-- totally firewalled-- but the only information that charger would have is whether that car's in-state or out-of-state. If it's out-of-state, $2 surcharge, $3 surcharge, $5 surcharge, that's not going to matter. But that is an additional revenue driver, significantly, that you will pick up, certainly on-- on I-80, right? There's tons of traffic from out of state that's crossing that. You need to be able to capture those EV drivers that are using those roads. This is a way to do it. Those numbers that you will have in front of you later do not even reflect that. You know, how do we pick up that out-of-state surcharge? The-- the $30 million of funds, going like this, really is higher if you institute the surcharge. The last point on, OK, how are we going to pay for all this, so we just received the fiscal note, and the fiscal note for the credit shows-- I believe it's $1.5 million in the first year of revenue loss in the state. That number is significantly offset by something that-- that-- really your state sales tax. So in Oklahoma, as an example, $40 million dollar project, companies, including ours, paid well over $2 million in state sales tax in 2019, the year that these were built, on the purchase of the hardware, which is about 30 percent of the total cost, and the purchase of the transformers and electrical infrastructure from the utilities. That also has a sales tax component to it. So on the significant portion of the project, your-- your hosts, or the owners of the assets, would be paying significant sales-- sales-- state sales tax. I don't know if it would equal $1.5 million, which was the-- the-- the hit for 2020, but I would bet it would be pretty close. I would bet it would be pretty quick. I know I'm out of time.

GROENE [00:22:36] **But--**

LINEHAN [00:22:37] **Probably not. Are there other questions? Was that it for Senator Lindstrom?**

LINDSTROM [00:22:41] **Yeah, that's about it.**

LINEHAN [00:22:42] **Senator Groene.**

GROENE [00:22:42] **So you build one of these in--**

KOLTERMAN [00:22:46] **North Platte.**

GROENE [00:22:46] I'm thinking of a small town in Oklahoma I've been through in about two seconds.

DAVID JANKOWSKY [00:22:53] Name any town.

GROENE [00:22:56] What's your monthly revenue off one of those right now?

DAVID JANKOWSKY [00:22:59] OK. So short answer is, I don't know. And the reason for that is, we just completed our network, literally, six weeks ago. So it was based on a tax credit that expired December 31, 2019. And we discovered this credit, and I can explain that in a minute if-- if we have more time, but we discovered this credit that was on the books in 2018, in the middle of 2018.

GROENE [00:23:22] So you started building or you were building already?

DAVID JANKOWSKY [00:23:25] So we-- we-- no, we started building in early 2019, and we finished it all by December 30, 2019. We had one day to spare.

GROENE [00:23:34] So you're not-- then you built for the tax credit, not for the profits--

DAVID JANKOWSKY [00:23:37] No.

GROENE [00:23:38] --for yourselves.

DAVID JANKOWSKY [00:23:38] Well, OK. I mean it-- it's-- it's kind of a complicated answer. So obviously, we're for-- a for-profit business. But we are not the tax credit entity in Nebraska. We don't have any state tax credits in Nebraska. So really, how it would be structured is, is you'd have a host with liability or a bunch-- when I say host, it's whoever is going to have the charging station, or you have a number of people that can invest in a-- in a fund--

GROENE [00:24:03] So in Oklahoma, you own the network. Here you would have subcontractors own it, and you would just build it for them and then they would do the tax credit?

DAVID JANKOWSKY [00:24:09] Well, what would happen is, we would build it for them. They would own the asset for five years for tax IRS rules and tax recapture.

Again, it's a nontransferable, nonrefundable credit, so you have to have meaningful ownership in the asset. And then after five years, they could choose to give us the asset or we could continue to manage it for them. But the software would be Francis software. So it would be, you know, you could go onto a Francis app, use Francis chargers, even if we don't own the physical asset, if that makes sense.

GROENE [00:24:43] So you won't-- you will sell the physical assets to them. You'll just build it for them.

DAVID JANKOWSKY [00:24:46] We're going to build it.

GROENE [00:24:47] Then you'd bill them about whatever the tax credit was, probably, or something like that.

DAVID JANKOWSKY [00:24:51] We-- we build it for fair-- you know, fair-- whatever the fair market value is. And-- and these are appraised assets because-- again, because they're going to be tax credited, they're-- they're all appraised.

GROENE [00:25:01] [INAUDIBLE] that.

DAVID JANKOWSKY [00:25:01] So obviously you can't say it cost $500,000 when it only cost $100,000.

GROENE [00:25:04] So if we had a tax credit in a-- call it a ImagiNE Act, where you could get your sales tax back, a company your size would probably apply for that, wouldn't you?

DAVID JANKOWSKY [00:25:19] Well, we would--

GROENE [00:25:21] Be foolish not to, wouldn't you?

DAVID JANKOWSKY [00:25:21] For the-- the sales tax remittance?

GROENE [00:25:22] Yeah.

DAVID JANKOWSKY [00:25:22] Yeah, we were obligated to; we have to pay it.

GROENE [00:25:25] No, but that we have a-- we're probably going to have a program here. We already have one that you sign up and you put so much investment, you get your sales tax back, payments back, and I'm sure if you've got a smart CEO or business manager, you will do that.

DAVID JANKOWSKY [00:25:43] I was not aware of that, but-- OK. Doesn't help our revenue discussion but-- [LAUGHTER]

GROENE [00:25:49] I appreciate your honesty. Thank you.

LINEHAN [00:25:52] Thank you.

DAVID JANKOWSKY [00:25:52] Thank you, Senator.

LINEHAN [00:25:54] Thank you, Senator-- Senator Groene. Are there any other questions from the committee? Senator McCollister.

McCOLLISTER [00:25:58] Yeah. Thank you, Chairwoman Linehan. So in-state, there would be no charge for the so-called fill up?

DAVID JANKOWSKY [00:26:06] Sorry, I was not clear on this. You will be charged for time to use the systems. You can-- you-- you'll be charged in-- in as many ways as you want to be charged. There's a credit card reader. You can go onto an app. You can do Google Pay, Samsung Pay, Apple Pay, any QR codes. You can pay for it any other way. But they are metered for fee. You do have to pay to use them. However, what people are going to pay to fill up their EVs is about 50 to 75 percent less. It's not really that good a case in Nebraska but, in most cases, less than what it costs to fill up a combustion-engine vehicle with the same range-- with the same range.

McCOLLISTER [00:26:46] OK. Thank you.

DAVID JANKOWSKY [00:26:46] That's where those savings come in. But for sure, charge meter for fee. We're just trying to capture an additional revenue stream for drivers out of state that otherwise wouldn't be captured.

McCOLLISTER [00:26:56] Thank you.

LINEHAN [00:26:58] Thank you, Senator McCollister. Senator Friesen,

FRIESEN [00:27:02] Thank you, Chairwoman Linehan.

DAVID JANKOWSKY [00:27:02] Hi, Senator.

FRIESEN [00:27:02] So if I understand you correctly, you'll find a partner, and that could be a restaurant or a library or a small municipality. You'll put it on Main Street. They will own it for five years. Is that correct?

DAVID JANKOWSKY [00:27:22] OK.

FRIESEN [00:27:23] And at that time, they'd turn it back?

DAVID JANKOWSKY [00:27:27] They don't have to, right? So a convenience store could say, hey, we want to own this asset, we want to manage this asset, and we're going to take a 75 percent credit on it and give it-- and open it to the public. So there-- with this credit, you'll probably see a lot of convenience stores and others with tax liability in the state of Nebraska putting these in. Or they could say, hey, we're not in the business of owning and operating EV charging stations-- which, by the way, is not very easy because there is software and payment systems and all kinds of stuff associated with that-- so how about you, Francis, ChargePoint, EVgo-- name anybody else in the market-- how about you all come in, you put it at our place of business, but you all deal with it, so we never-- you all pay the electrical bill; you put in all the infrastructure; we get the benefit of EV drivers, who now are going to come to our place of business. But what we also do-- and we've kind of stolen this from the oil and gas industry, frankly, where I come from-- is to pay a royalty. We call it a royalty, but, you know, a percentage of gross to the host. But it-- but really, it starts in year five, because in the first five years there is not enough charging sessions for these things to pay back, even with a 75 percent credit. But what our company is doing and, and the bigger-- we're not big, but it's this new market-- but the bigger companies in this space, they-- they are building out networks. And so on a-- on a volume basis, for us, we see great value in-- in-- in turning it into a comprehensive network. And we know that those stations, in some of these towns in Oklahoma, might not positively cash flow for ten years. And that's why a single individual in those terr-- you know, in those areas are not going, we know, to invest in a single charger. But if you're doing it over a network, a portfolio of-- of charging stations,

it's OK. So we're in, you know, seven states at the moment, trying to build out from Oklahoma. So we're in New Mexico, Colorado, Kansas, Missouri, Arkansas, and Texas, Texas in a much smaller way, trying to build out this network, focus on rural areas, because that's the only way to build out a comprehensive statewide network with every 25 to 50 miles. Some of those are going to be major losers and some of those on the traffic stops are going to be-- maybe in five years they'll start cash flowing, but certainly not in the first five years, certainly not.

FRIESEN [00:29:56] So you're-- you're-- I mean, to me, when I look at it, and if I'm going to start a business and somebody is going to give me 75 percent of my capital costs upfront and a tax credit and I still have trouble making it in some locations--

DAVID JANKOWSKY [00:30:13] Um-hum.

FRIESEN [00:30:13] --I'm-- I'm finding it hard to say that taxpayers should be doing that. And I know the network needs to be built, but shouldn't there be other partners, whether it's car manufacturers or someone else? But when you say the taxpayer, shouldn't there be other partners in this?

DAVID JANKOWSKY [00:30:33] I don't disagree with you. So Tesla, you know, Tesla built out their own network, and they spent billions and billions of dollars doing it. And they're not an EV charging company. They're a car and battery company. So their stations are, you know, they're not going to maintain them perfectly and they're just not in the business. You know, they put them every 100 and 200 miles and-- and that covers Tesla drivers. That doesn't cover the-- the rest of the world. So unfortunately, no single manufacturer is going to put in Ford chargers and Nissan chargers and whatever; it-- they're not. That's not who they are. They just make cars. So they're--

FRIESEN [00:31:13] Is-- is there going to be a universal standard someday?

DAVID JANKOWSKY [00:31:16] There is a universal standard, non-Tesla. So there's the rest-of-the-world plugs. And actually, for rest-of-the-world plugs, there's actually two-- not important, but soon those two will become one. So there will be-- and the Europeans are already doing this. So there will be one universal plug and then one Tesla plug. Now Tesla drivers have an adapter to use the rest-of-the-world chargers. Rest-of-the-world cars can never use a Tesla charger.

FRIESEN [00:31:44] OK. So going back to collecting revenue for our roads and stuff, is there-- do you see any way of collecting a per-mile or anything like that, like we do on our gas taxes? That's basically a-- it's not quite a mileage tax, but it's-- it's as close as we can come. Some cars get better mileage, obviously-- but some way that we can collect that revenue other than like a surcharge or-- because we also have-- have problems how we're going to collect this revenue. As mileage increases on those cars, how do we go about charging them rather than just a-- a registration fee on-- on local cars? But is there a system in place where we could actually charge by the mile? And you said earlier there are some charges will last 7 minutes and some could last 90 minutes, whatever. So it's not in time that you can charge, but is there a mileage amount that somehow [INAUDIBLE]?

DAVID JANKOWSKY [00:32:41] Like a mile per charge?

FRIESEN [00:32:42] Yeah.

DAVID JANKOWSKY [00:32:43] So, you know, it's $2 or $1? No, I mean, one-- 10-cents-per-mile per charge or something? Yes, yes. I think it's just an administrative issue. How do you administer that? To us, it's just kind of easy. DMV sends you a registration every year; you've got to pay it. Otherwise they boot your car. And again, our view is, even with $35,000 cars and-- you know, people still can afford to pay $150 for the roads. And, you know, that's a pretty-- that's-- that's a number that many states have adopted. Others have gone lower. Others have gone higher. But our economist thinks the sweet spot for Nebraska is about $150. And how to collect that and--

FRIESEN [00:33:28] Well, yeah, and-- and we're looking at it. We want it to be a fair tax. I mean, we-- some people will use their car more than others, so take advantage of that side of it.

DAVID JANKOWSKY [00:33:35] Yeah. I mean, I think certainly it can be done, and certainly it can be done because those cars are smart.

FRIESEN [00:33:41] Yeah.

DAVID JANKOWSKY [00:33:41] And so there's a way to do it. Just administratively, I-- I don't--

FRIESEN [00:33:46] OK. Thank you.

DAVID JANKOWSKY [00:33:47] Yeah, but it's a great question.

LINEHAN [00:33:48] Thank you, Senator Friesen. Senator McCollister.

McCOLLISTER [00:33:51] Yeah. Thank you, Chairman Linehan. It seems to me that the strategy of going into rural areas is upside down. Wouldn't it make more sense to be in an urban area where the concentration of electrical vehicles would be greater and the travel distances shorter?

DAVID JANKOWSKY [00:34:11] Amen. So what's going to happen if Nebraska passes a tax credit? There will be a number of companies coming in here to avail of that. They are only going to be focused on the urban areas. And the reason for that is because their-- their business model-- and not everyone's business model, but generally their business model, and I'm talking about our competitors that do Level 2s and high-speed systems, they sell their systems to hosts, and then they charge those hosts a monthly fee for their use of the system. That's their model.

McCOLLISTER [00:34:42] I see.

DAVID JANKOWSKY [00:34:42] Our model is different in that we own and operate it and hold it long-term. So, therefore, because we're going to hold and operate it long-term for 20 years, and these are basically 20-year, useful-life assets, we're-- we're good going into the rural areas, because we see-- we know in five years everyone's going to be buying F-150 trucks in those rural areas. These other companies, though, because they make money on percentage, they're looking for the-- the high-utilization areas.

McCOLLISTER [00:35:09] Thank you.

LINEHAN [00:35:10] Thank you, Senator McCollister. Senator Groene.

GROENE [00:35:12] How many stalls do you put in, in these rural stations? Or is it just--

DAVID JANKOWSKY [00:35:17] Yeah, it just depends on the spot. But typically, our stations will-- each site will have two; might have three, might have four; some might have one. We might have a 200 KW, which charges a car in 20 minutes, and put that at a grocery store. It's perfect. But then, in that same grocery store, you know, there could be-- I don't know, whatever. So we-- we could put in a 50 KW that's a 90-minute charger, right? So if someone knows they're going to spend 90 minutes, they'll go to that one.

GROENE [00:35:46] Is this a 110 or 220 or a 440 volt? What-- what do you--

DAVID JANKOWSKY [00:35:50] OK, so 120 volt will charge your car in about 30 hours.

GROENE [00:35:54] OK.

DAVID JANKOWSKY [00:35:55] So that doesn't work. For home charging, what they do is they give you a box, right? It costs $500. You can get it at, you know, Walmart or whatever. You've got to get an electrician to convert something to 240 volt, but you stick it on the wall. That will charge your car overnight. That's the equivalent of the Level 2s that you're seeing, I think, out in the public a little bit. Those are-- those will charge a car in the same speed, overnight.

GROENE [00:36:18] So yours are-- quick charge are, what, 440s-- volt or--

DAVID JANKOWSKY [00:36:23] Much higher.

GROENE [00:36:24] Much higher?

DAVID JANKOWSKY [00:36:24] I'm not an engineer--

GROENE [00:36:25] Yeah.

DAVID JANKOWSKY [00:36:25] --so we can get back to you on all the specs, certainly. But it-- it's got to be much higher. We're-- we're-- we're bringing in like 500 KVA lines for some of our projects. And-- and the seven-minute chargers that I talked about, those are the 400 KW-- just very, very quickly, apologize for taking all your time-- there is not even a car on the road today, except for one that can

accept all the power that that 400 KW can deliver, if that makes any sense. So it's future-proof. So as batteries get better and denser and blah-blah-blah, they'll start being able to receive all the power that those 400 KWs can give them, and then you can charge your car in seven to ten minutes.

GROENE [00:37:08] This is a policy issue, but why am I always going to run my diesel pickups on gas, and everybody else is, why am I paying tax dollars to help one industry, one individual who happens to have a gas-- an electric vehicle that I have to build him a gas station, a fill-up station, a [INAUDIBLE]? Is this to be green? Is this the reason we're spending all this money, is we want to go green or is it a-- an economic issue?

DAVID JANKOWSKY [00:37:31] No. I mean I--

GROENE [00:37:32] I heard your economic argument, but--

DAVID JANKOWSKY [00:37:35] No, no, no, but I do think-- it's not a green issue. And-- and, you know, we're-- we're in eight states and all these states, besides New Mexico and Colorado, are very conservative states. So it's not an environmental issue. It's a-- it's, OK, where do we think the electrification of automobiles is going? As a policy matter, as a state, where do we think that's going? And either we believe that's coming or we don't. If you believe it's coming, then you need the infrastructure here to capture it because, if it comes and you don't do it, no one-- you're-- no one is going to drive through Nebraska, because they can't, because they have nowhere to charge.

GROENE [00:38:12] Well--

DAVID JANKOWSKY [00:38:13] So they're going to be forced--

GROENE [00:38:14] If you're free markets, if you're Sapp Brothers or Quik Stop--

DAVID JANKOWSKY [00:38:18] Yep.

GROENE [00:38:19] --you're going to, just like, as diesel vehicles increased and ethanol increased--

DAVID JANKOWSKY [00:38:23] Yeah.

GROENE [00:38:23] --they invested in infrastructure to capture that arc.

DAVID JANKOWSKY [00:38:27] Yeah.

GROENE [00:38:27] Why am I subsidizing this when I-- when that free enterprise [INAUDIBLE] and it's economical for them to do it, they'll do it.

DAVID JANKOWSKY [00:38:35] Yeah. So it's-- it's really a chicken-or--or-the-egg issue at the end of the day, because car manufacturers-- and we know it's coming because $250 billion are going into the electrification of automobiles.

GROENE [00:38:51] Thank you.

DAVID JANKOWSKY [00:38:51] So we know it's happening. The question is, kind of, when. We think we have a decent answer for when that's going to come. But we know none of that matters if you don't have the public infrastructure.

GROENE [00:39:01] Thank you, sir.

DAVID JANKOWSKY [00:39:01] It's just a policy issue. It's not a green environmental issue at all. It's just, hey, there is an industry that we see that's coming. How do we capture it?

GROENE [00:39:09] Thank you.

DAVID JANKOWSKY [00:39:10] That's all this is. Thank you very much, yeah.

LINEHAN [00:39:12] Thank you, Senator Groene. Are there any other questions from the committee? Thank you. That was very helpful-- to me, anyhow.

DAVID JANKOWSKY [00:39:16] Thank you, Senator Linehan. I appreciate it. Thank you, committee, very much.

LINEHAN [00:39:21] Other proponents? Are there any other proponents? Are there any opponents? Anyone wanting to testify in the neutral position? Letters for the record, do we have letters for the record? We have letters for the record, proponents-- proponent: Leighton Yates, Alliance for Automotive Innovation;

Kathy Siefken, Nebraska Grocery Industry Association; opponents: none; neutral: Anne McCollister, Nebraska Community Energy Alliance. Senator Wishart is waiving closing. So with that, we will bring LB1162 to a close. Thank you very much. And we will open on LB1220. Welcome, Senator Wayne. Good afternoon.

WAYNE [00:41:11] **Good afternoon, Chairwoman Linehan and members of 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 is north Omaha and northeast Douglas County. What I am handing out is a-- last year, last August, just a brief synopsis of business climate in Nebraska, and you'll see one of the lower scores, scoring a D in key performance categories and access to capital, particularly for areas in east Omaha and, I would venture to say, rural areas, people who are starting businesses who are looking to expand. The issue of access to capital is one of the greatest issues at least my community faces, but as I've talked to others, it seems to be happening across Nebraska, as you can see from the score in this ranking. LB1220 provides a program to ensure much-needed investment in high-need areas to grow Nebraska and provide necessary transparency and accountability. This bill will reinforce the state's commitment to investing in economic development programs that provide capital across our state, emphasizing rural areas and low-income areas, workforce development, ensuring investment leads to wage growth, and provide transparency and accountability for taxpayers. These priorities were also expressed in the findings of the Legislature's Economic Development Task Force, which some of us all sat on. Here is how LB1220 would work. The Legislature would appropriate dollars to the Department of Revenue to be used in highways, jobs, and capital investment, to create a capital investment fund. Federally licensed fund managers, through the Small Business Administration or USDA, would apply to participate in the program. The licensed fund managers must raise, dollar-for-dollar, the state dollars; therefore, the state program is matched. If the state appropriates $15 million, $15 million in capital must be matched, for a total of $30 million in the fund. To qualify to receive these funds, the businesses must have fewer than 150 employees, be located in designated Opportunity Zones, be located in census tracts with poverty rates greater than 20 percent, or the median family income of less than 80 percent of the lo-- locality or be in a county of 200,000 people or less. This bill also requires 25 percent of the fund be invested in areas outside of Douglas, Sarpy, and Lancaster Counties. Also, businesses must be able to receive-- must not be able to receive a loan from a traditional lender. So what we're talking about in this fund is people who cannot go to the bank and grow**

their company, for whatever reasons. This is outside of that traditional loan, loan being provided to businesses. LB1220 is a targeted investment in high-need industries. Qualifying industries are: agriculture; utility; construction; manufacturing; transportation; warehousing; professional; scientific; technical; healthcare; and social assistance program areas. LB1220 is guaranteed job creation because the state dollars are forgivable if jobs are not created. For example, the fund participants get a dollar amount of credit for the type of wage created. There are four tier rates. For every new employee paid 150 percent of the minimum wage, $10,000 is forgiven, forgivable, $20,000 for a new employee receiving 200 percent of the Nebraska minimum wage, $30,000 for 250 percent of the Nebraska minimum wage, and $40,000 per new employee paid at 150 percent and is a veteran, senior, ex-offender, disabled, or enrolled in a DHHS program. If these jobs are not created, the dollars are returned to the state. The participants in the program are required to report to the department specific criteria on an annual basis, and the department is required to forward this report to the Legislature on an annual basis. The price tag on this bill is up to the Legislature. Nonetheless, this program is worthy to implement and allow the future-- Legislatures of the future to fund this type of program. The reason I asked for a late hearing date is because, as this bill was introduced, another committee has a identical bill, Senator Lindstrom's bill, in-- in Business and-- Business and Labor. And that bill was advanced out to the General File, but it did give me an opportunity to share with a new group of senators the idea behind Senator Lindstrom's bill and the need for it, as this type of investment created one of the largest employers in north Omaha, which you should have received a letter, and they may be here to testify and can tell you more about how this has worked in north Omaha and how it has benefited, at least, the community I represent. And with that, I'll answer any questions.

LINEHAN [00:46:19] Thank you, Senator Wayne. Are there questions from the committee? Seeing none, thank you very much. Are there proponents? Good afternoon.

MARK SCHEFFEL [00:46:56] Good afternoon. Madam Chair, committee members, my name is Mark Scheffel. I'm with Advantage Capital. Last-- my name is spelled S-c-h-e-f-f-e-l. It's an honor to be with you this afternoon. Let me start by applauding the efforts of Senator Wayne and, as was mentioned, Senator Lindstrom, as well. It's been an honor and privilege to work with both of those gentlemen on advancing this bill and I'm obviously here in support of that.

Advantage Capital is a small business investment firm with a national footprint that invests in businesses in hard-to-serve, underserved areas in this country. We've actually been working in your state for a number of years now as part of some of your other investment programs. And I really applaud your efforts. It's-- it's-- it really goes without saying, except that we're all here talking about that, that systemically in this country, capital, which is into the billions and billions of dollars, approaching $100 billion, disproportionately flows to our coasts and to our major metropolitan areas. It doesn't come from rural Colorado, where I come from. It doesn't come to rural Nebraska. And as I've said, I've applauded-- I applaud your efforts to try to drive capital, and you've done that through a number of programs and continue to work on that. I believe this bill, LB1220, and its companion piece, LB604, that's floating through your system, really represent best efforts and state-of-the-art reasoning to try to take incentive-based investing to the next level. It's no secret that the economy in this country has come a long way, and your state has been included in that. And we can talk about that, and advancements in job growth and whatnot, and business growth. I think the last time I saw somewhat dated numbers, I think your unemployment rate was around 3 percent, which is actually pretty good. But what we also know is that elements of the recovery and of flow of capital and growth of new jobs doesn't get everywhere. And so you're absolutely on point to try to be addressing these issues and drive investment, try to bring companies like mine to your state to make investment. In reality-- and the fact is, under some programs you have and under these new programs, Advantage Capital would be one of the companies that would come here and apply for application of a portion of the allocation and then play by the rules and go make these advancement-- investments. As I said, I really believe this bill represents state-of-the-art principles in incentivizing investment, in that it is-- places its emphasis on accountability and transparency. And as policymakers and lawmakers, that's what you want to look for. You want programs. If you're going to put in dollars-- and as Senator Wayne explained, it's a dollar-for-dollar match, so if the state comes up with $1, firms like Advantage Capital have to match that and then play the-- play by the rules that you've set down in-- in the statute as far as-- as-- as where this would go. And Senator Wayne did an excellent job. I'll just reiterate that what you're doing with this is driving capital to small businesses, so businesses with less than 150 employees. There is a-- this is-- the program is administrated by your tax commissioner. And so there is an exception written into the law that if the commissioner found that the particular business that all has to be vetted by his or her department was beneficial to the economies of the state, you could make an exception. That's a

good thing. You want your policymakers and your administrators involved in this process. And then, as was stated, it would go to some very specific locations in your state, first focusing on census tracts, poverty rates of 20 percent or more, family and median income of 80 percent or less. And then I think it was mentioned-- again, let me emphasize, also included in this is Opportunity Zones. That's a federal program that was passed as part of-- as part of the major tax reform package under the administration. And by adding that into this bill, you actually serve as a magnet to attract national Opportunity Zone funds to your state. You similarly did this with New Markets Tax Credits and experienced, I believe, a 15-fold multiplier to funds coming to your state, when you added a state program by that, like that. And then, finally, there is a set-aside for counties less than 200,000. And I think that carves out your major counties again, so you're-- you're consciously driving investment to your rural areas. Prepared to answer questions. I did do a handout, which is somewhat repetitive in-- in-- in what Senator Wayne has done. I tell you, it's a pleasure to come to a state-- I-- I-- I travel all over this country working on these issues. It's a pleasure to come to a state where not one, but two senators are advancing legislation in this area, and are so conscious in trying to drive this for your constituents. It's a pleasure to be here. So I remain available for questions, Madam Chair.

LINEHAN [00:51:56] Thank you very much. Are there questions from the committee? Senator Briese.

BRIESE [00:52:02] Thank you, Chairwoman Linehan. And thank you for your testimony today. You mentioned coming to our state and a couple senators who promoted this. What about the other states? Is this a common-- common tool used by-- used across the country to incentivize investing, and would you call it incentivized-based investing?

MARK SCHEFFEL [00:52:19] Right. Senator, Madam Chair, committee members, yes, so this problem of disproportionate flow of capital has been around for a very long time, and it actually has its roots in Small Business Administration, where they began to take a look at this and figure out how can we not just push money down, but actually incentivize-- how do you get the private industry involved? And so programs like this have been going on, literally, since the '50s. There have been a number of iterat-- so short answer to your question is, yes, there's programs in various iterations of this in many, many states. The one that we're talking about here is currently, specifically, in-- in Michigan; recently,

Nevada passed a new program; Georgia; Pennsylvania; Utah; Ohio. There are a number of states that are currently pursuing current forms of this. But if you look historically across the country, including my own home state of Colorado, there are other versions of this. And what you're constantly trying to do, and it's why I applaud you in your efforts here with-- with writing into the actual law your concerns or, in this case, the-- the legislators that are working on this, specific concerns and target it, you want to make it-- you want to customize it to your state. And the common theme that you should never default on and never compromise on is transparency and accountability because you're committing a portion of your state dollars. And you want to incentivize; you want to put some up and then you want me to do it. And you've done a great job. It-- it-- it's part of this fund. You take the dollar, the state dollar, we have to match it, and then we actually go back and find investors. But I'm actually, as one of the participants here, required to have skin in the game of up to 10 percent of my own money. That's a really good idea because that means I'm incentive-- you know, we're incentivized to be here and compete with each other, and those are all things. So long answer to your question but, yes, these are being pursued in many, many states.

BRIESE [00:54:17] OK. Thank you.

LINEHAN [00:54:18] Thank you, Senator Briese. Are there other questions? Senator Groene.

GROENE [00:54:23] So I'm reading this sheet-- $30 million, $15 million from the state, $15 million from private. That's you? You come up with the $15 million? Number two, state approves fund manager rate, $15 million of private capital and then $15 million state-- give them a loan--

MARK SCHEFFEL [00:54:42] Yeah.

GROENE [00:54:42] --and use it. And then you go out and find a customer.

MARK SCHEFFEL [00:54:45] So the-- yeah, Senator, good question. So the concept is a dollar of state match-- money gets matched with a dollar of private money, OK? And as Senator Wayne said, there's no allocation in this, so what the goal-- and I understand you're dealing with budgetary issues-- and so the goal is to put the policy in place and then figure out how to fund it. It's anticipated that

you would have actually many companies come here and apply for application. And so your Tax Commissioner would actually, based on a number of allocation-- number of applications, it-- it would be highly unusual for any one company to do the entire $15 million. I suppose it's possible, but it'll be very competitively pursued.

GROENE [00:55:21] You're the banker for these folks. You-- you put your $15 million in or your $1.

MARK SCHEFFEL [00:55:28] Correct.

GROENE [00:55:28] And then you go out and loan to some customer, find a customer?

MARK SCHEFFEL [00:55:33] Business, invest in a business, either through-- in a combination, and they're typically equity and debt. They can be equity, where we actually buy a portion of the business, or they can be debt.

GROENE [00:55:43] That leads to my next question. How do you make a buck off of this?

MARK SCHEFFEL [00:55:47] We make-- if it's a loan-based product, and a lot of times these are-- these are mixed, it's through interest. And if it's equity, we're hoping that that company will grow and be successful and that we'll be able to sell our ownership interest.

GROENE [00:56:01] Interest, do you get paid interest on the state's share, too, or just your share?

MARK SCHEFFEL [00:56:06] It's-- it's-- it's-- the monies are fungible; they get melded together. And so it goes out, and if it's a debt, it goes out to a loan product and it's whatever is negotiated from that. So--

GROENE [00:56:18] So your $1 and the state's $1, but you collect interest on both dollars.

MARK SCHEFFEL [00:56:25] They're melded together, so I see what you-- there-- there could be--

GROENE [00:56:27] Thank you.

MARK SCHEFFEL [00:56:27] --if you wanted to-- if you wanted to try to divide it, you could-- you could--

GROENE [00:56:31] Thank you.

MARK SCHEFFEL [00:56:32] --make that statement.

LINEHAN [00:56:35] Thank you, Senator Groene. Senator Lindstrom.

LINDSTROM [00:56:36] Thank you. But to clarify, you wouldn't get that investment unless you hit the criteria and-- and got that job.

MARK SCHEFFEL [00:56:44] Absolutely.

LINDSTROM [00:56:45] So--

MARK SCHEFFEL [00:56:45] The default-- the default position in the legislation is that the state's portion of-- of the fund, which is the 50 percent, gets paid back. That's reduced with job production. And that's laid out very, very clearly in the four factors in the legislation.

LINDSTROM [00:57:04] Just wanted clarification.

MARK SCHEFFEL [00:57:04] Thank you.

LINEHAN [00:57:05] Thank you, Senator Lindstrom. Are there other questions from the committee? Seeing none, thank you-- oh, Senator Friesen. I'm sorry.

FRIESEN [00:57:12] Thank you, Chairwoman Linehan. So what are-- when you're looking at a business, what are the qualifications they have to meet?

MARK SCHEFFEL [00:57:22] So it kind of breaks down into a couple of things. Specifically laid out into the statute is businesses that are small, so less than 150 employees, and then the location-- they have to be in census tracts where there's a poverty rate of 20 percent or more or census tracts where the family median

income is 80 percent of that area's AMI, or less. And then a designated Opportunity Zone, and that's where your Governor-- and there's a map of those. They're typically in underserved rural areas of your state. If they're-- if they're in your populated areas, they're in, again, very, very underserved areas, so Opportunity Zones, and then there was a set-aside for-- to make sure they go to the counties of less than 200,000, so to stay away from your-- your populated areas.

FRIESEN [00:58:10] They have to meet all of those requirements-- requirements.

MARK SCHEFFEL [00:58:12] Right. Absolutely.

FRIESEN [00:58:14] OK. All right. Thank you.

McCOLLISTER [00:58:15] Thank you, Senator--

LINEHAN [00:58:18] Thank you, Senator Friesen. Senator McCollister.

McCOLLISTER [00:58:21] --Madam Chair. You operate in many states, and I heard you testify. What's the delinquency rate or the failure rate for those people that fail to pay back?

MARK SCHEFFEL [00:58:31] Thank you, Senator. Members of the committee, it's actually relatively low. And that's because-- and I think the company I worked for is-- is wonderful and that's why I'm doing it. I actually used to sit in a chair, like you, in Colorado in years past. And so from a policy standpoint, this-- this means a lot to me. But it-- because what the, really, magic of this is-- is what you're doing is you're bringing to bear the free enterprise system. You're taking companies that do this professionally and-- and candidly, are very good at seeking out businesses that are undercapitalized, that are in a position to grow. And so it's actually relatively low. It's actually-- it's greater than a commercial bank but, candidly, not much greater. And that's because--

McCOLLISTER [00:59:18] At what rate?

MARK SCHEFFEL [00:59:18] Oh, golly. Maybe it's less than 10 percent. I mean, it's-- it's-- there is-- there is additional risk that comes with this. And it's really-- the concept behind that is what we call patient capital. When you look at all these

deals-- and you're actually going to hear testimony from, I think, a couple of businesses that have, that have benefited from programs like this. It's never just one thing that solves the problem. It's what we-- it's what we call a capital stack. And if you think about it, a business that's poised for growth will come in, and their first stop will typically be with their local banker, a person they-- they know personally; they're a friend; they are part of the same Lions Club or whatever; they have breakfast every Thursday. And it'll be like, I need, you know, X millions of dollars to advance my company. That local banker, community banker, usually in a state like Nebraska and my home state of Colorado, has been decimated by federal regulation. Tons of them have been put out of business. They would love to do that loan. They're happy to do that loan, but they can't. But armed with a program like this, where you begin to build the stack and you say, OK, $6 million of that X number of dollars will be part of this program, some will come from Opportunity Zones, some of the other programs you have in your state, now, all of a sudden, the bank is willing to come in and they'll say, yeah, we'll do $1 million of that $6 million. And typically what you'll find is that they're in the prime lien position. We were mentioning equity with the discussion with the senator over here. Typically, if there is any equity, it'll be a minority interest, because the goal is to help these companies, not stay around forever, and then launch them back to the way they've been rejuvenated into the-- to the traditional capital markets.

McCOLLISTER [01:00:51] Thank you. Thank you.

MARK SCHEFFEL [01:00:51] So all that to say that it's very patient, it's very facilitative in a collaborative process.

McCOLLISTER [01:00:58] All right. Thank you.

LINEHAN [01:01:00] Thank you, Senator McCollister. Are there other questions from the committee? Seeing none-- oops, did I-- seeing none, thank you.

MARK SCHEFFEL [01:01:05] Thanks for your time, all.

LINEHAN [01:01:06] You bet. Other proponents?

MAC RODGERS [01:01:22] Hello, my name is Mac Rodgers, R-o-d-g-e-r-s. Unlike the gentleman before me, I don't go around the country doing this, so I'm going to

read. I'm the CEO of Beehive Industries. Beehive is a Nebraska-based SAS business that helps towns, cities and counties manage their physical infrastructure. These infrastructure items are things like roads, power plants, sewers, public buildings. Years ago, Beehive had established itself regionally with a handful of employees and-- and was actually the recipient of an investment from a prior package like what you guys are considering here. And Advantage was a part of that. It allowed the company to build out its product and move to a national footprint. Today we employ 23 full-time staff here in Lincoln, all of which would qualify under the four categories of what-- of what you have in terms of jobs that you're looking to create. And we have clients in 28 states. We're still growing. And I'm confident that the investment in Beehive that was put through five years ago is going to continue to create additional jobs here in Nebraska. Prior to taking the job at Beehive, I worked as a consultant with quite a few startups in Nebraska, and there's two things that I learned from that experience. The first is that it's a great place to work, and-- and there are a lot of talented people here that can create businesses that can compete locally and nationally. And the second thing is, it is hard to find money, and it's hard to find money when you need it most. And that's before you've reached the level of success where a bank can step in and-- and you're still trying to prove out the company. I think that a package like LB1220 can play a huge role and be a real difference maker in getting companies to that level where they can then start to go after more traditional funding. I was born here. I worked here most of my life. I have two kids and-- two daughters and two son-in-laws [SIC] that work in Nebraska, after graduating from UNL, and they're-- and they all started at start-ups. And I don't know if they received money from a program like this, but I know that they're still here in the state and-- and they have great jobs working for companies that have grown out of entrepreneurial businesses that had investments made at the right time. And I think LB1220 could be another part of making that happen for other people. That's what I have to say, and I'd be happy to answer questions.

LINEHAN [01:04:15] Thank you very much for being here. Are there any questions from the committee? Seeing none--

MAC RODGERS [01:04:20] Thank you.

LINEHAN [01:04:20] --thank you very much. Are there other proponents? Any other proponents? Are there any opponents? Is anyone wanting to testify in a

neutral position? We have no letters for the record. Senator Wayne, would you like to close?

WAYNE [01:04:43] **Yes. And I just want to mention that I will send out an e-mail to the committee regarding North Teleservices [SIC] which is a telemarketing service in Omaha, north Omaha, that was largely impacted by this. And they're up to 300 employees, which is one of our larger employers in north Omaha. I do want to just emphasize one thing here that I don't want people to lose sight of. This is one of, if not the only program where, if the job is not created, the dollar comes back to the state. So the dollar we put in, if the job is not created, the dollar comes back. That is the risk on the part of these companies, or these investors, is they have to create the job in order to keep that dollar. That's why it's forgivable. So you get it, and the only way you forget that-- or forgive it by the state is by actually creating the job. So I think that's a huge incentive for-- at least from a policy perspective, that we offer a lot of programs. I know there is going to be more talk this year about other tax credits, but I think it's critical to-- to not miss that point, that if it's not created, the dollar comes back.**

LINEHAN [01:05:56] **Thank you, Senator Wayne. Are there questions for Senator Wayne from the committee? Seeing none, thank you very much--**

WAYNE [01:06:02] **Thank you.**

LINEHAN [01:06:02] **--for being here. With that, we close LB1220. And we will open the hearing on LB1214. Senator Briese.**

____________ [01:06:19] **LB1175.**

CRAWFORD [01:06:19] **LB1175.**

LINEHAN [01:06:20] **Oh, it's LB1175, I'm sorry. Well, I've got them-- I've got them in the wrong-- I skipped up ahead to Senator Briese. So who's going to run when I'm not going to be here? Lindstrom, do you want to take over when he's got his bill?**

LINDSTROM [01:06:31] **Yeah, that's fine.**

LINEHAN [01:06:31] **OK. Good afternoon, Senator Briese.**

BRIESE [01:06:39] **Oh, good afternoon, Chairwoman Linehan and fellow members of the committee. My name is Tom Briese, T-o-m B-r-i-e-s-e. I represent District 41. I'm here today to offer, for your consideration, LB1175, which would impose a 10 percent tax on the revenue of cash devices as defined by Nebraska. Revised Statute Section 77-3001. The revenue from that tax would then go into the Property Tax Credit Fund. I want to also note, the green copy of the bill specifies that the tax will be on the gross revenue. The intent here, really, is it would be on the net profit from these machines and not the gross, not, not the handle on them, so to speak. The net revenue would be a more reasonable, sustainable tax roll involved. And I have an amendment that would clarify that. Over the last several years, these cash devices, or games of skill, have appeared throughout the state in various locations, including bars, gas stations, VFWs. Originally, there wasn't much regulation of these devices. They simply followed the same rules as other mechanical amusement devices, such as pinball machines or pool tables, and that required filing an application, according to the Mechanical Amusement Device Tax Act, and displaying a stamp decal. In order to be approved and obtain the decal from the Department of Revenue, an operator or distributor of such device had to complete Form 54, file the form with the department, pay a $35 fee for the year. No further requirements or regulations were in place. And if there were concerns about whether a particular device was an illegal game of chance instead of a game of skill, law enforcement would have to go seize that particular device for violation of charitable gaming and lottery acts and have it tested. And that did occur, resulted in litigation in 2011, American Amusements v. Nebraska Department of Revenue, and there the court, Nebraska Supreme Court, utilized a predominance test, which holds that an activity is gambling in Nebraska if its outcome is predominantly caused by chance but allowed if it is predominantly a game of skill. The particular device in this case, BankShot, was found, at least in most modes, to be a game of skill. So to provide further clarity and regulation regarding these cash devices, the Legislature heard and passed LB538 last session. LB538 develop-- developed a separate and more thorough regulatory and application process for these cash devices within the Mechanical Amusement Device Tax Act. This included an application process that required an application fee of $500, a specimen of the device, information regarding the device's location, software, internet connectivity and configuration, and supporting evidence that the device is a game of skill, and not chance, and an affidavit from the distributor that no functional changes would be made without further approval of the commissioner. And LB538 also set out requirements once an application was approved by the department. This includes an annual $250 fee**

for a decal to evidence that a device is in compliance. LB538 limited the number of devices in a particular establishment, set an age limit of 19 years or older to play, and specified that these devices could only be played with cash, and such devices now are regulated by the Department of Revenue Charitable Gaming Division. Draft rules and regulations by the department regarding these devices and the requirements of LB538 were recently proposed by the department, and a hearing is scheduled, I believe, for tomorrow on those proposed regulations. This bill, LB1175, utilizes the existing mechanism for regulating such devices under the Mechanical Amusement Device Tax Act, and any rules and regulations that may go into effect, and simply adds a 10 percent tax to the net revenue from the machines. And as of February 14, the department has indicated they have received 1,163 applications for these devices, and there currently appear to be about 2,541 devices in places across Nebraska in nearly 900 different locations. So far, the department has collected $675,000 in application and stamp decal fees. The application fee and annual device fee are directed to the Department of Revenue Enforcement Fund for enforcement of the act. There is not currently a tax on the money wagered or put through the devices. The department did not yet have contracts between distributors and operators of these-- these devices or exact numbers on how much these devices typically net. However, on a bill associated with cash devices last year, LB722, the department provided a document from the committee that indicated examples of what various owners said they were making on some of those machines. You know, one example was $11,000 per month off of two machines. Another owner indicated he made $200,000 off of seven machines, per year. My conversations with others that represent the machine owners and distributors indicated those numbers could be significantly lower, such as netting perhaps $20 a day, per machine. So currently, it is really difficult to determine the exact amount of revenue we're talking about here, as these accounts vary. However, once some rules and regulations are finalized, we'll have a better idea of those numbers when we look at contracts and reports. Regardless of the exact amount of money we're talking, I believe a tax on the-- these machines is reasonable, as they're used in bars, gas stations, and VFWs as a way to bring people in and make money. Other states with auth-- which authorize and regulate such devices also tax the revenue. One example is Arkansas, which taxes the net wagering revenue from its electronic games of skill at 18 percent. Under the bill, the 10 percent tax from the revenue of the-- on the revenue of these devices, under LB1175, would be paid quarterly by the operator of the device. Under proposed rules and regulations by the department, there is go-- there would be additional records and reports by operators of these devices

that should be compiled and submitted quarterly to the department. Those include information from each device and device location, such as total wagers, total prizes paid, total unclaimed prizes, net revenue, and a list of all disputed vouchers. Since the total net for all the devices at a location is already being requested on a quarterly basis, of part-- as part of draft rules and regulations, it would seem the quarterly requirement to remit 10 percent of the net rev-- revenue would be fairly simple, from an administrative standpoint, and an efficient manner to collect such revenue. And again, the bill directs that revenue to the Property Tax Credit Fund. And this bill was really, you know, borne of our discussions last year when we were seeking new revenue to fund property tax relief. This was a source that several of us said, yes, we should be looking at. And personally, I wouldn't be asking for it if it wasn't directed towards property tax relief. And so that-- that is the goal here. And again, the amounts we're talking about, they're-- they're in question. It's hard to put a number on them. I think when we get these things registered, and assuming the department's rules and regulations go into effect-- some of those rules and regulations might be contested, I understand, but if they go into effect, then we will have a very good handle on what we're talking about here for dollars. But anyway, we're kind of speculating on the amounts at this point. But at this point, I'd answer any questions or I assume there'll be a few folks behind me that might have some other information.

LINEHAN [01:14:29] Thank you, Senator Briese. Are there questions from the committee? Seeing none--

BRIESE [01:14:34] OK.

LINEHAN [01:14:34] --thank you very much.

BRIESE [01:14:36] Thank you.

LINEHAN [01:14:36] Are there proponents?

LORAN SCHMIT [01:15:00] Good afternoon, Chairperson Linehan and members of the committee. My name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. Senator Briese has given a very accurate description of the equipment which has-- has proliferated across the state of Nebraska. He's answered some of the questions that I had asked about earlier, of the Department of Revenue when they first became

legalized through the LB-- actually it was LB538 in 2019. My name is Loran Schmit. I live in Bellwood, Nebraska. I appear here today in support of LB1175.

FRIESEN [01:15:35] Would you spell your-- spell your name?

____________ [01:15:37] He did already.

LORAN SCHMIT [01:15:39] L-o-r-a-n S-c-h-m-i-t. LB1175, when passed by the Legislature, will correct a serious mistake that took place in 2019, when the Legislature passed LB538 on a vote of 48-- 44 to nothing, which provided a path to legalization for more than 3,000 illegal gambling machines in the state of Nebraska. I got that information from Tony Fulton, the Tax Commissioner, who advised me that there's been a substantial growth in machines since the passage of LB538. For some reason in Nebraska, these machines are called games of skill. I seriously challenge that description and, even if they are, there is no reason why that activity should not be taxed. Abe Lincoln once asked, when he was court: If I call a dog's tail a leg, how many legs does a dog have? The witness promptly replied: Five. No, said Mr. Lincoln. The dog will still have four legs. Calling a dog's tail a leg does not make it a leg. Calling these machines games of skill does not make them games of skill. I leave that to the legal people to decide that. I remember when the appellation "games of skill" was first attached to BankShot machines. Today, dozens of different machines are in operation in Nebraska. There are no two alike in many areas, and I've seen dozens of them in one location. Today, dozens of machines are in operation in Nebraska. The last time I spoke to Tax Commissioner Fulton, he wasn't sure all the machines would be tested or when. I suspect maybe never, because there was no-- there was no provision, at that time I spoke to him, as to the statute, to provide who must test the machines, who is responsible that the machines are legal, and how to determine if they are legal. I assume the cities will be responsible for policing the machines. It's been my experience that the highway patrol, in the past 40 years, abdicated their responsibility to try to determine if some machines were legal or not. I'm in support of LB1175 in its present form if that pleases the committee. But I also offer an amendment that would give the cities and the counties a share of the revenue when equipment is placed under their jurisdiction. I want-- want to help this bill, not hinder it. The number of machines in the state is now in excess of 3,000. That number will grow rapidly. We have licensed machines with very limited control on the numbers allowed per location, no limit on where the machine-- equipment is located. They're located in bars, convenience stores,

truck stops, retail gas stations, and at least one location in my district where the principal business is the operation of the machines. I expect that, as has happened in South Dakota, there will be principal-- or many principal areas that will just operate the machines for that purpose alone. Some elected persons like to boast that Nebraska is a no-gambling state. We've been a wide-open state for sports gambling as long as I can remember-- for more than 70 years. There is no effort made by any law enforcement agency in Nebraska to control that activity. Jackie Gaughan told me, more than 40 years ago, that more than $100 million was being spent on football gambling alone, annually, in this state. Today we've added basketball, volleyball, women's sports, and other activity which encourages gambling. We have keno, pickle, lottery, horse racing, all of which is taxed. We do not tax charitable gaming. For some reason, these machines are lumped under the charitable gaming act, apparently, which would require some definition by legal counsel. LB1175 is the only bill this committee will hear this year that will raise millions of dollars of new revenue for the state. We have heard a number of states which request-- a number of bills which request revenue. You have passed, and you have on the floor today, bills which require revenue. Senator Briese has introduced the only bill which will raise not tens, but hundreds of millions of dollars, if other states are any example of what we see here in Nebraska. A responsible Legislature must meet the legitimate needs of the state. One of the most immediate needs is rural property tax relief. Senator Friesen, I'm embarrassed. The farmers ought to be lined up, four wide and ten deep, to support this bill. I was at the Farm Bureau convention. All of them were against gambling. I said: That's beside the point, gentlemen. You already have gambling in the state. Now do you tax it or not? Well, they decided, yes, we'll tax it.

FRIESEN [01:20:35] Can you wrap up your testimony?

LORAN SCHMIT [01:20:36] Well, where are they? They're not present today, so it's up to this Legislature to determine what to do with this bill. I advance-- I would hope you'd advance the bill and pass it into law. I commend Senator Briese for the introduction of the bill, and thank you very much.

FRIESEN [01:20:51] Thank you, Mr. Schmit.

LORAN SCHMIT [01:20:52] I'm glad to answer any questions.

FRIESEN [01:20:54] Any questions from the committee?

LORAN SCHMIT [01:20:56] I assume that means the bill will go to the floor 8-zip, so thank you very much.

FRIESEN [01:21:02] Thank you, Mr. Schmit. We've assumed a lot of things before. Any other proponents wish to testify? Seeing none, anyone in opposition wish to testify?

WALT RADCLIFFE [01:21:25] I've always found Senator Schmit a very difficult act to follow. My name is Walt Radcliffe, R-a-d-c-l-i-f-f-e. I'm appearing before you today as a registered lobbyist, on behalf of American Amusements, in opposition to LB1175 and-- and, frankly, feel very humbled to testify after Senator Schmit. He and I have known each other and, frankly, worked together on gambling issues probably for 40 years. And I think this is probably the first time I've ever sat on the opposite side of a bill with him. But I think, as you hear my testimony, I think you'll understand why and, also, that many of my conclusions would not differ from those of Loran's. American Amusement was the company that took BankShot to court, and that was then found to be the game of skill. I'm not here to testify against imposing some type of a tax on games of skill; here to testify against LB1175 and how it goes about that. Senator Briese, in his opening, commented about one thing that we had brought to his attention, and that is it needs to-- if you're going to do this, it needs to address net revenues, not-- not gross revenues. The second thing that-- that I had mentioned to Senator Briese, and I'm sure he would-- he and the committee would correct this, is the definition. The-- the way this bill is written, you're-- you're going to tax gumball machines. So you need to take and apply-- if-- if you're going to do it, you need to make games of skill be defined as under Section 77-3001. And we talked about that; pretty simple change to make definitionally, but that has to be done. Last year, when-- when LB538 was passed and there was a $250, I'm going to call it, licensing fee for a stamp to be put on it, there was discussion then that one of the reasons for that was that would be an in-lieu-of-tax stamp. So all of a sudden you're-- you know, before we've even got a rules and regs under that act, we're coming back with this to impose another-- another tax. I'd say, I think you should wait to do that. I think it's worth some consideration in the future. But when you do it, you may want-- you may want to or need to revisit the basis for that stamp tax. And furthermore, you're going to want to see how the rules and regulations that are being proposed, and I would add will be strongly contested, would impact the way the-- the way the program is administered and the way it impacts

on-- on the number of machines. So in short, imposing a tax on-- on machines for which the rules and regs haven't even been heard or adopted, and when you do have a revenue source already in place with regards to doing the stickers that you're doing in LB538, I think it's just premature to do that. This is probably something the committee is going to want to look at. I'd submit that the face of all gambling in Nebraska could change dramatically in the next 12 months, with the petition efforts that are out there. So I think a prudent person would let the Revenue Department proceed with the rules and regs, see where that ends up, see what happens with the petition efforts on gambling, then sit back and take a more comprehensive view of what gambling revenues could do and mean for the state of Nebraska. Be happy to answer any questions

FRIESEN [01:25:09] Thank you, Mr. Radcliffe. Any questions from the committee? Seeing none--

WALT RADCLIFFE [01:25:17] Thank you.

FRIESEN [01:25:17] --thank you for your testimony. Any others wish to testify in opposition?

CHRISTOPHER CUMMINGS [01:25:31] Good afternoon, members of the committee. Thank you very much for hearing me. I'm here in opposition of LB1175. My name is Christopher Cummings; that's C-h-r-i-s-t-o-p-h-e-r C-u-m-m-i-n-g-s. I'm the special project manager at Pace-O-Matic. We have cash devices in the state of Nebraska, and we have a distributorship and manufacturer. We're based in Atlanta, Georgia, and we've got multiple folks here in Nebraska that operate our equipment. LB1175 poses a-- a new 10 percent tax on the gross net receipts. I believe that is what we're talking about now. We had thought originally it was all cash in, and that was going to be a significant burden. It would have basically taken-- taken all the profits out of the machines. We have a different model that-- that works differently than other types of games because they have premium prizes. So you've got cash that comes in and then you have prizes that go out, and it's the net of that, that if anything was going to be taxed, we would hope it would be off of that and not the total amount of dollars going in. Of larger concern is the fact that LB538 outlaws most of the machines that are operating in the state now. The types of games that are being played aren't the types of games that are compliant with LB538. And so we have one of the few machines, I think, that will comply. We'll find out after we get final resolution on

the regs, after the hearing and after they actually lay them out. But we're already being taxed quite a bit, between the $35 fee that our operators had been paying and now it's a $250 fee. And we have games with multiple player stations in them, and it's $250 per player station. So yearly fees can go as high as $2,000 on our equipment. That's pretty significant. We're going to be at the meetings with the Department of Revenue tomorrow. We have a list of-- of hopeful changes that they'll make to the regulations, to make it a little bit more amenable to be able to operate our equipment. But even if they don't make any changes, we'll still comply. The-- the imposition of the tax prior to the regulations even being done, we just feel, is-- is a little bit premature. We're not opposed to a tax in general. We just think that the timing is not right this year, that there's enough changes going on that we would hope that they would defer until the next session. And that's really all I have to say.

FRIESEN [01:28:31] Thank you, Mr. Cummings.

CHRISTOPHER CUMMINGS [01:28:32] Thank you.

FRIESEN [01:28:33] Any questions from the committee? Seeing none, thank you for your testimony.

CHRISTOPHER CUMMINGS [01:28:45] Thank you.

RUSSELL WESTERHOLD [01:28:46] Afternoon, Senators. My name is Russell, R-u-s-s-e-l-l, Westerhold, W-e-s-t-e-r-h-o-l-d, as in "David," appearing before you today on behalf of Winners Marketing, Inc. Winners is a distributor of so-called cash devices in Nebraska. I'm having my full written statement circulated. It is very repetitive of what you've already heard today from the industry, so I'll just stop there and try to answer any questions you might have.

FRIESEN [01:29:15] Thank you, Mr. Westerhold. Any questions from the committee? Seeing none, thank you for being brief. Any others wish to testify in opposition? Welcome.

JOHN FOX [01:29:38] John Fox, J-o-h-n F-o-x, from American Amusements. As referred to, we make BankShot, and just-- so I don't disagree with much of what the-- of what the former senator said, but I will say BankShot is legal because the Supreme Court said so. One difference that's-- and I'll try not to be redundant with

what Walt or the other have said, but one difference between games of skill and games of chance, first of all, games of skill make less money than games of chance. But the other is, with games of-- of-- of chance, the taxation can be passed to the customer to some degree. You control the-- you can control the percentage. In a game of skill, the tr-- the-- by definition, the player controls the outcome. You don't have any way to pass along a new tax or a new fee. It's really absorbed by the-- by the business owner; and that's somewhat unique in-- of almost any product. And-- and I would-- I would also comment that, as-- as Senator Briese said in his opening, you're going to know a lot more about how many machines there are, what those revenues are, and more about everything next year than what you do this year. And that's all I have to say.

FRIESEN [01:30:54] Thank you for your testimony. Any questions from the committee? So one question--

JOHN FOX [01:30:59] Thank you.

FRIESEN [01:30:59] --for me, one question, I guess. Do you play the game?

JOHN FOX [01:31:03] I do not.

FRIESEN [01:31:05] I was just wondering how much your skill level was.

JOHN FOX [01:31:07] I do not.

FRIESEN [01:31:08] Thank you. Any other opponents who wish to testify?

ROD KRUSE [01:31:22] My name is Rod Kruse, K-r-u-s-e. I'm with Nebraska Technical Services in Omaha, and I signed up to oppose the bill. Not that we, like everybody said, that we are opposed to a tax, just the magnitude of it. And my opposition dropped considerably when I heard it was net, not gross. But I think there's some confusion out there over skill and chance, games of chance; and we have had the opportunity to run both. And games of chance make considerably more money than games of skill. And, like John said earlier, it's a little bit harder to pinpoint what the profit is going to be on a game of skill because you don't know. It'd be like saying Tiger Woods is going to shoot minus 10 every time he goes on the court. You don't know that. So I would just hope that, in the long run, whatever the tax would be, it won't hurt small businesses, because we have--

some small businesses do rely on these, and especially like the nonprofit organizations and stuff. So with that, I think everybody else has pretty much covered what I had to say.

FRIESEN [01:32:32] **Thank you, Mr. Kruse. Any questions from the committee? Seeing none--**

ROD KRUSE [01:32:37] **Thank you.**

FRIESEN [01:32:37] **--thank you for your testimony. Any others wish to testify in opposition? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, Senator Briese, you wish to close?**

BRIESE [01:32:57] **Thank you, Senator Friesen. And just very briefly, I want to thank former Senator Schmit for coming to visit us today and his support of this bill. I want to thank everybody else who testified also. And like I said earlier, and I think other testifiers said, once the rules and regulations are in place, we're going to know a whole lot more about what's going on. We're going to be able to identify better, you know, the amount of dollars we're talking about and the profit margins, and the dollars that are involved, the numbers of machines that are involved. And cash devices, they do have a statutory definition; it perhaps should be clearer in our language. There is some-- in the bill itself, we refer to that statute that the definition is found in, but it could be somewhat clearer. And clearly, we're not in the business here of driving anybody out of business. None of us want to do that and-- but what I did hear from, you know, several of the testifiers, that, you know, they're not opposed to being taxed on this. And with that said, if we don't get this done this year, it gives me a little more incentive to come back next year with it. It wouldn't be this-- one of the reasons I brought this was, it wouldn't be the same, not bringing a bill to raise revenue to fund property tax relief. So anyway, I'd take any questions.**

FRIESEN [01:34:16] **Thank you, Senator Briese. Any questions from the committee? Seeing none, we do have no letters from pro-- proponents. And we do have two letters of opponents: Jeremy Smith, with Tical; Matt Kroeger, All American Games; and none in the neutral capacity. That will close the hearing on LB1175.**

LINDSTROM [01:34:54] We will now open the hearing on LB1214, introduced by Senator Friesen. Senator Friesen, whenever you're ready.

FRIESEN [01:35:01] Senator Linehan, members of the Revenue Committee, my name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n. I represent the 34th District. I'm here today to present LB1214. LB1214 creates Rural Economic Development Grant Act. This grant program would be administered by the Department of Economic Development. It is designed to specifically attract or expand businesses in rural Nebraska, or as described in the bill, micropolitan statistical areas, and I'll talk about that a little bit at the end. To qualify for the grant, newer existing businesses must be located in the aforementioned area, must not qualify for incentives under the main tax incentive program, and will need to create new jobs or make new investments in the area and the state. This grant is also available to any nonprofit organization or governmental subdivision seeking to help businesses grow in their communities. The department is authorized to create application form which shall include information, including: the amount of jobs created and the expected wage of the new jobs; the amount of the new investment; and the amount of the grant funding requested. The department shall begin accepting applications on January 1, 2022, pursuant to the limits provided in the bill. Any applications received after the limits are reached shall be considered for funding the following calendar year. Under this bill, the department would be authorized to award a total amount of grants each year to equal 5 percent of the amount of tax credits used under the state's main tax incentive program in the preceding year, which is the legislative fiscal year. Estimates would range from $4 million to $15 million annually, depending upon those credits used. Taxpayers who use tax credits under the main tax incentive program in the tax year 2021 or any tax year thereafter shall remit 5 percent of the amount used during the tax year to the department by no later than January 15, following the end of such tax year. The department shall remit all amounts received under this section to the State Treasurer for credit to the Rural Economic Development Grant Fund. This fund shall include proceeds generated from remittance of tax credits and any other money determined by the Legislature. The department shall submit an electronic report to the Legislature by-- by July 15, 2023, and every year thereafter, showing compliance with the act. After the bill was introduced, we noticed that the definition of "micropolitan statistical area" would only include 17 counties outside of the metro area, so I would like to, in an amendment, address that and open it up to the rest of the state. We just did not want it to include the metropolitan and primary class cities.

This was meant more for a rural Nebraska; that was my intent. You know, we've-- we've talked a lot in the past about the loss of population in rural Nebraska and-- and how we need to turn that around and how the-- the programs we're using incentivizes businesses and small business start-ups. In rural Nebraska, a lot of jobs are created one and two at a time. They're start-up businesses that their incidence of failure is probably greatest in the first three to four years of business, and that's when they need to help the most. And those might be the next business that turns into the large one that someday, down the road, would end up to be like a Cabela's or something like that. And so my focus has always been on those one- and two-job-creation businesses that we would incentivize to get started, and that really fits in with the small communities in rural Nebraska. With that, I'd be glad to answer any questions. Thank you.

LINDSTROM [01:38:40] **Thank you, Senator Friesen. Any questions from the committee? Seeing none, thank you, Senator Friesen. We now move to proponents.**

JOHN HLADIK [01:39:01] **Will I also get away with calling you Senator Linehan?**

LINDSTROM [01:39:04] **No, that's a one-time-- one-time deal.**

JOHN HLADIK [01:39:06] **[LAUGH] Good afternoon, Senator Lindstrom and members of the committee. My name is John Hladik; that's J-o-h-n H-l-a-d-i-k, and I'm testifying on behalf of the Center for Rural Affairs. The most effective and desirable economic development strategy for Nebraska's rural, underserved, and distressed communities is small entrepreneurship. This has been proven to work in areas that have not been successful in attracting manufacturers or other large employers. The only incentive program currently available to these businesses is the microenterprise tax credit. Its purpose is to provide tax credits to applicants for creating or expanding microbusinesses that contribute to the state's economy through the creation of new or improved income, self-employment, or other new jobs. And we think the Rural Economic Development Grant Program would complement the microenterprise tax credit very well. It does so by making funding available to a nonprofit or a political subdivision seeking to assist these businesses as they get started, which is really tough. And where small businesses are concerned, LB1214 would provide a viable option for those businesses who are unable to take advantage of the microenterprise tax credit; it's not a fit for everyone. We agree with Senator Friesen that an important change**

is needed. The Rural Economic Development Grant Program would appropriately fill a gap left by the ImagiNE Nebraska. Act, but the scope is limited. We're concerned that the proposal's focus on the micropolitan statistical areas is too narrow and that it leaves a lot of the state behind. And the-- the back page of the document that I've handed out shows the map that Senator Friesen alluded to. Those areas designated micropolitan statistical areas by the Office of Management and Budget, as of 2019, include only 17 of our counties, 17 of the 93. And so the potential benefits of LB1214 won't be available in a lot of the rural and the remote counties where they're needed most. And-- and I-- I was glad to hear Senator Friesen mention that as a potential fix and I think, with that change, this would be a really excellent bill and could be a very big help with what we're trying to do in rural Nebraska. We applaud him for moving forward with this proposal and look forward to working with the committee to make those changes. And I'd be glad to take any questions.

LINDSTROM [01:41:23] Thank you for your testimony. Any questions from the committee?

GROENE [01:41:27] I have one.

LINDSTROM [01:41:28] Senator Groene.

GROENE [01:41:28] This map, the colored ones is the counties that would qualify for Senator Friesen's?

JOHN HLADIK [01:41:32] That's right. These are the micropolitan statistical areas designated by the Office of Management and Budget.

GROENE [01:41:40] You got my vote-- Lincoln County.

LINDSTROM [01:41:42] Any other-- any other questions? Seeing none, thank you. Next proponent? Going to have to move down this way.

MARK SCHEFFEL [01:41:59] Thank you-- thank you, Mr. Chairman. Committee members, for the record, Mark Scheffel with Advantage Capital, S-c-h-e-f-f-e-l. And as you know, I just was speaking to you briefly on another bill, and I just couldn't pass up the opportunity to rise in support of this, as well. I'd had the privilege of meeting Senator Friesian previously, and applaud your efforts,

Senator. Oftentimes what happens in this effort to address underserved, in particular rural, areas is you end up with gaps in your-- in your-- in your support. And I see this addressing areas where folks haven't previously qualified for credits, and I applaud you for that. Again, I get to work in a lot of different venues and issues like this, and it's just a real complement that you're addressing this. You know, we talk about the disproportionate flow of capital out of Silicon Valley and San Francisco. Those aren't bad people. They've got their business models and they're working really hard for what they're doing. But I can assure you, they're not thinking about rural Nebraska and you are. The only suggestion I would make, can't resist, with all due respect, is to the extent that this is using grant dollars from the state-- I've worked with many, many areas to tweak a proposal like this-- an added incentive. You got to take your dollars and, in the cons-- the constant of accountability and transparency, get private folks-- not just like myself but other folks like me-- and make them come to the table with some dollars, as well, and try to leverage your dollars to try to get some other players. Beyond that, I-- I-- I'd lend my support [INAUDIBLE] privilege to be here.

LINDSTROM [01:43:36] Thank you. Thank you for your testimony. Any questions from the committee? Seeing none, thank you. Next proponent? Seeing none, we'll now move to opponents. Also seeing none, any neutral testimony? Seeing none, Senator Friesen waives closing. That will end the hearing on LB1214.

CRAWFORD [01:44:12] Letters?

KAY BERGQUIST [01:44:12] Oh, letters.

LINDSTROM [01:44:12] Oh, and there's letters here. Excuse me. We have letters in support from: Steve Nelson, Nebraska Farm Bureau; Dan Nerud of Nebraska Corn Growers Association; Shane Greving, Nebraska Soybean Association; Tim Chancellor, Nebraska Pork Producers Association; Craig Beck, OpenSky Policy Institute; opponents: Kristen Hassebrook, Nebraska Chamber of Commerce and Industry; Jennifer Creager, Greater Omaha Chamber; Bruce Bohrer, Lincoln Chamber of Commerce; and no neutral testimony-- or letters of testimony. And that-- that'll end the hearing on LB1214.

FRIESEN [01:44:51] OK. With that, we'll open the hearing on LB946. Welcome, Senator Briese.

BRIESE [01:44:57] Thank you, Vice Chairman Friesen, and good afternoon to everyone. I'm Tom Briese, T-o-m B-r-i-e-s-e, and I represent the 41st District in the Nebraska Legislature. I'm here today to present to you LB946. LB946 was drafted in an attempt to adapt our sales tax system to the realities of our 21st century economy. The green copy does so, but by requiring all services in our state to be presumed subject to our sales and use tax-- in other words, presumed taxable. As drafted, it would go into effect in October of '21. It then requires all revenue generated by this base expansion to be directed to a rate reduction, with the initial rate to be 4 percent. As drafted, it would require the Tax Commissioner to adjust the rate quarterly during the first year of implementation, to best reflect a rate that yields the same revenue to the state as would have been raised, had the current tax rate of 5.5 percent in the current narrower base been in effect. And this is an effort to make it as close to revenue-neutral as possible. The goal is not to raise taxes on Nebraskans. It's simply to update our tax code to this century. When our sales tax was first implemented, our economy was goods-based. Two-thirds of our economy was composed of goods transactions. But we have shifted to the point where we're roughly two-thirds service-based. This proposal recognizes and reflects that structural change. I maintain that this is needed structural reform. Expansion of our sales tax base, coupled with lower rates, is good tax policy. Base expansion spreads the load more evenly and uniformly across our population. It also makes a regressive tax less regressive. A lower rate can improve our state's rankings in tax comparisons, and it can help attract new residents to our state. And I would suggest, also, that it stabilizes our sales tax base. And it is, I believe, supported by think tanks located across the political spectrum. I drafted this bill by presuming all services taxable because I believe that is the preferable way to approach this. By presuming all services taxable, it puts the Legislature in a position of giving-- then giving away exemptions, as necessary, rather than trying to take them away. I presented the bill in this manner because I believe it's much more difficult to add in services individually to the tax base, and the delayed implementation date would allow us ample time for enactment of remedial exemptions to cure legitimate issues. You know, essentially it would give special interests and stakeholders an opportunity to make their case as to why their particular industry or their particular service should be exempt from the sales tax with real economic arguments. Note that the green copy define-- simply defines what a-- what is a service and exempts nothing. And the intent would be that we establish exemptions in the next legislative session before the October 21 implementation date. But I would suggest, if one was to go forward with a bill like this, there are perhaps certain

categories that should be exempted in the initial legislation, and one such category would be business inputs. And other potential exemptions could include healthcare, education, housing. So the green copy would put all services into our tax base and exempt nothing. And I was curious as to the size of the tax base, if no services were excluded, and hoping that the fiscal note could get us something-- a good number on that. But-- but that's a-- it's a difficult number to arrive at, so we're still left to speculate. My staff researched that issue, also, and, you know, there's not good numbers on all these services. But I noticed what the fiscal note does indicate. The way I read the fiscal note, if we replicated South Dakota's sales tax base and then, essentially, our sales tax rate, I believe, could be 3.9 percent, and I do think that's food for thought. Perhaps a South Dakota-type sales tax base should be considered. And I do note that South Dakota does exempt a broad category of services, also, including healthcare, education, ag services, financial services, engineering, architectural surveying, and some other professional services. And numerous other things are exempt there, also, but they do have a much broader tax base than we are. But anyway, that's the-- that's the gist of the bill. In my view, if one wants to reform our sales tax mechanism, I think this is the way to do it: presume everything taxable and then start pulling out what folks can make a sound policy argument for exempting. And that's, essentially, the bill.

FRIESEN [01:49:57] Thank you, Senator Briese. Any questions? Senator McCollister.

McCOLLISTER [01:49:59] Yeah. Thank you, Senator Friesen. If I understand your-- the purpose of the bill, this bill would change sales tax rates on some periodic basis--

BRIESE [01:50:10] Yes.

McCOLLISTER [01:50:11] --in order to be budget neutral?

BRIESE [01:50:12] Yes.

McCOLLISTER [01:50:13] How often would that occur?

BRIESE [01:50:14] It would be done quarterly during the first year of implementation and-- as per the green copy. Is quarterly too often? Maybe, maybe

twice in that first year or maybe four times in the first four year-- two years, but-- but in a-- in a way to try to allow our Revenue Department to adjust and determine exactly what this base expansion actually does, so we hit the mark as closely as possible in our efforts to make it revenue neutral.

McCOLLISTER [01:50:42] Do you see the, Senator Briese, this being burdensome to those people that have to pay sales tax, not-- not-- not for the people buying things, but--

BRIESE [01:50:51] Sure.

McCOLLISTER [01:50:52] --for those--

BRIESE [01:50:53] Yeah, the--

McCOLLISTER [01:50:54] --marketers that--

BRIESE [01:50:55] Yeah, yeah.

McCOLLISTER [01:50:55] --sell or either-- or services are provided.

BRIESE [01:50:57] Yeah, that's a good question. Maybe quarterly is too often; maybe semiannually would be better. But I think we drafted it so that the Tax Commissioner, the Revenue Department would make the determination well in advance of the time that the retailers would have to change their collection practices. So they would have, I think, three months' worth of notice on that. I'd have to look at it again. But, you know, you wouldn't want to have to announce it one-- one week and tell them next week you're-- you're at a different rate.

McCOLLISTER [01:51:30] Right.

BRIESE [01:51:30] But I think there's going to be sufficient notice given to the retailers. But that's a good question. I-- I don't think it would be that burdensome in this day and age myself, but--

McCOLLISTER [01:51:38] Thank you, Senator.

BRIESE [01:51:38] --but-- but notice would be appropriate, yeah.

FRIESEN [01:51:41] Thank you, Senator McCollister. Any other questions from the committee? Seeing none-- so, Senator Briese, would the-- the real big winner of it would be the municipalities, right, as they broaden their 1.5 percent, or wherever that is?

BRIESE [01:51:57] It would certainly give them some wiggle room. And one would hope that they would be responsive to their taxpayers and reduce-- reduce their rates accordingly to reflect the expanded base. But, yes, they-- it would give them-- give them an additional source of revenue.

FRIESEN [01:52:16] OK, thank you. Seeing no other questions, thank you.

BRIESE [01:52:19] Thank you.

FRIESEN [01:52:21] Proponents who wish to testify in favor of LB946?

TIFFANY FRIESEN MILONE [01:52:34] Afternoon, Vice Chair Friesen. Members of the Revenue Committee, my name's Tiffany Friesen Milone, T-i-f-f-a-n-y F-r-i-e-s-e-n M-i-l-o-n-e. I'm policy director at OpenSky Policy Institute. We're here-- we were initially waffling about neutral versus support but, based on the concerns that Senator Briese addressed in his opening, we will come in, in support. We generally strongly support the idea of expanding the sales tax base to more services, as it would be a big step in modernizing our sales tax. However, again, we have the same concerns about taxing business inputs and increasing the regre-- or kind of countering the offset to regressivity by including services like healthcare and other things. Nebraska sales tax code, because of the way it was instituted, has created some distortions. Having to add in services as you go has created some discrepancies. So we tax like barbershop and beauty parlor services-- or we don't tax those, but we tax pet grooming. We tax indoor swimming pool cleaning, but not outdoor pool cleaning. And other states have broadened their bases to kind of smooth these out, including South Dakota, which taxes 152 services versus Nebraska's 81. As Senator Briese said, the base has become narrowed over time by focusing only on goods. Consumer spending has shifted strongly away from goods towards services, which has required increases to the rate in order to maintain revenues. According to the Bureau of Economic Analysis, about 41 percent of household consumption in 1967 was on purchases generally sub, subject to the sales tax. About 29 percent was spent on

services. As of 2018, that's now about 31 percent on taxable purchases versus 46 percent on services. So again, we support expanding the sales tax base. Many of the services that would be included would be more targeted to wealthier families, which would offset it. But again, if you're going to include healthcare, rent, and automotive repairs, we feel that would fall disproportionately on lower-income households. And we would also support exempting business-to-business transactions in order to avoid pyramiding. With that, I'm happy to take any questions.

FRIESEN [01:54:48] Thank you, Ms. Milone. Any questions from the committee? So would you say that the cities will also be big winners if we modernize our tax code?

TIFFANY FRIESEN MILONE [01:55:00] If the rates aren't changed, it would be applied to a broader base, so yes.

FRIESEN [01:55:07] So the proper way of addressing how we're going to modernize our tax code, would you agree to just-- maybe we-- say we tax everything and now everything has to be justified, and so we go through the process of removing those exemptions?

TIFFANY FRIESEN MILONE [01:55:23] I think there are some that could probably be exempted from the outset. I think healthcare, nursing home services, the ones that would be more regressive. I don't know that you would need to go through the process for things like that, and business inputs. But essentially, that is how it worked in 1967; with taxing goods, each good that comes out has to be justified going forward.

FRIESEN [01:55:50] OK, thank you. Senator McCollister.

McCOLLISTER [01:55:51] Yeah. Thank you, Senator Friesen. Food and pharmaceuticals should be included in the-- in the list that we would not tax, correct?

TIFFANY FRIESEN MILONE [01:55:59] Yes.

McCOLLISTER [01:56:01] Thank you.

FRIESEN [01:56:01] Thank you, Senator McCollister. Any other questions from the committee? Seeing none, thank you for your testimony. Any others wish to testify?

NICOLE FOX [01:56:23] Good afternoon. Nicole Fox, N-i-c-o-l-e F-o-x, director of government relations at the Platte Institute, testifying in support of LB946. Nebraskans may disagree about which taxes need reform, but each major tax could be improved in some way to better adhere to sound tax policy principles and make Nebraska a better state for taxpayers. While all services would become taxable under LB946, the sales tax rate imposed on currently exempt services would be lower than the rate imposed today on taxable goods and services. Right now, an Omaha resident, buying a car, pays a 7 percent sales tax while their neighbor, buying pool cleaning services, pays 0 percent. Under this plan, both purchases would be taxed at 5.5 percent. With this initial change, Nebraska's ranking, as far as its sales tax rate, would be reduced from 29th highest to the 40th highest. Although five states do not have a state sales tax, the sales tax rate proposed in LB946 would put Nebraska among the lowest sales tax rates in the country and still allow for the collection of revenues needed to pay for state services. Also, under LB946, reducing the sales tax would come with the tradeoff that new state revenues could not be used for property tax reform. But because the base expansion proposed in this bill includes only services and not exempt goods, there would still be room to add more exemptions and reduce other tax rates if the Legislature decided to approve property or income tax reforms. Local governments with sales tax authority would see new revenues that could enable additional reforms. One concern that we do have-- and I know Senator Briese has already discussed this-- is that in the current language, it does not properly exempt business-to-business services from sales tax. And we are concerned about that leading to tax pyramiding. However, we would like to commend Senator Briese for how this bill approaches new revenue. Each year for the first four quarters-- I apologize for the typo there-- after adoption, LB946 would require the Tax Commissioner to review sales tax receipts and potentially make an additional reduction to the sales tax rate, if revenues increase. This allows the new revenue to be used to phase in tax reform based on actual receipts, and not to simply add to state-- to state spending. It's a perfect example of broadening bases and lowering rates. LB946 is a fair way to pay for the services we all benefit from, and it improves our economic competitiveness by reducing the chance for tax rates to influence economic decision making. We thank Senator Briese for

bringing this proposal forward. And with that, I'm happy to entertain any questions.

FRIESEN [01:59:06] Thank you, Ms. Fox. Any questions from the committee? Seeing none, thank you.

NICOLE FOX [01:59:15] All right.

FRIESEN [01:59:15] Any other proponents who wish to testify in favor of LB946? Seeing none, anyone wish to testify in opposition?

GREGORY FERRIS [01:59:41] Senators, my name is Gregory Ferris, G-r-e-g-o-r-y F-e-r-r-i-s. Senators, thank you very much for the opportunity to be here today. I'm with Genesis Health Clubs. Genesis has moved into Nebraska in the last three years. They were based in Kansas for many years. Over that time period, they've invested $30 million into Nebraska and plan to do that again, as they continue to grow in Nebraska. That investments has been in acquisitions, upgrading clubs, and in new employees. The Nebraska clubs currently have 700 employees and 70,000 members. We're a-- we're concerned. I-- I-- I'm hearing some things that make me a little less concerned. For example, if you include the services that we provide as preventative healthcare into the healthcare exemptions, we would have a little less trepidation to where you're going because, right now, no state that we're in taxes personal training and those types of services. Our personal trainers, for example, not only work with people on exercise, they work with them in educating them on good nutrition, other healthiness things. So while you may exempt that doctor's office visit and you may exempt prescription drugs, you should also exempt us who are trying to keep people from having to go to the doctor and the prescription drugs. Also, the business-to-business expense is another one of our concerns, if you would exempt that. If you don't exempt it, we will not use, for example, Nebraska lawyers. We'll use Kansas lawyers because then we will not have to pay them, Kansas accountants, because we won't have to pay that tax. Even if it's 4 or 5 percent, when you have bills the size that sometimes we do, that can be a significant amount. So again, as I hear some things that you may modify, we have a little less-- we have a little less concern. We're also concerned because we have two major competitors in the state of Nebraska. They are municipalities and the YMCA. They just built a $50 million facility, a municipality, two miles or three miles from one of our facilities. We're paying for that facility in our property tax and in our sales tax. So if you add this

on and those sales tax go up to those municipalities, we're going to be paying even more to fund our competition. You don't currently charge on membership dues to the YMCA or to local facilities. And we think that's a little bit unfair, but that's a whole different issue that we could address at a different time. But it does address a little of the double taxation issue, because our members now pay to go into that club and they pay a tax, a sales tax. And now, if they have to pay for the services that are rendered at that facility, they're paying-- they're paying twice, where if they go to a YMCA, they don't pay at all. And again, it's not the YMCA paying that tax. If you are a member of Genesis and you're a member of the YMCA, you pay the tax, you don't. It's not the whether or not the Y pays that tax. It's the member, the Nebraska citizen is being treated unequally. And this will just compound that. So we would ask, if you decide to move forward, that it's very important to us that you exempt the business-to-business expense-- taxes on services and, also, that you would include us in the healthcare exemptions because we believe we're the front line of keeping people healthy. Nebraska has, according to the Independent Trust for America, over 30 percent of its population that experience hypertension or obesity. We're on the front line of trying to get that down and make those people more healthy. With that, I'd be glad to answer any questions. And thank you again for your time.

FRIESEN [02:03:54] Thank you, Mr. Ferris. Any questions from the committee? Seeing none, thank you. Any others wish to testify in opposition?

CRAIG ECKERT [02:04:16] Good afternoon, and thank you for this opportunity. My name is Craig Eckert, C-r-a-i-g E-c-k-e-r-t. I'm vice president and part owner of Platte River Radio, which represents five stations in Kearney and Hastings. I've twice chaired the board of the Nebraska Broadcasters Association, also known as the NBA, on whose behalf I speak today. The NBA is comprised of 48 entities which own 254 radio and television stations and 196 of which operate commercially in our state. I am here to testify, on the NBA's behalf, in opposition to LB946. The Federal Communications Commission expects local broadcasters to provide programming that serves the needs and interests of local communities. LB946 hinders our stations from fulfilling their FCC requirements because it adds yet another regressive economic burden. In your own districts, you've seen dwindling numbers of locally owned brick-and-mortar retailers. Fewer retail business means fewer local advertising dollars to fuel our broadcasts' FCC mandate to provide local news, local sports, local public service outreach, as well as locally produced entertainment. I bring to you Florida,

Arizona, and Iowa case histories. All three states tried taxing advertising and found that, in addition to hurting local economies, it was impossible to administer. Arizona repealed it within the same year. Iowa and Florida repealed it, respectively 30 and 6-- and 6 months, respectively, by calling costly special legislative sessions. Nebraska-based broadcasters who share a border with Iowa, South Dakota, Kansas, Colorado, Wyoming, or Missouri, which have no tax on advertising, would lose an unfair share of ad dollars to their cross-border rivals. LB946 places a tax on advertising which exceeds the total percentage of adjusted gross revenue that broadcasters already are forced to pay for performance rights organizations, such as: ASCAP, BMI, SESAC, and Global Music Rights. Our industry is in court this year again, fighting more regressive fees, and have no doubt this issue will receive a similar response. However, our most and foremost objection to LB946 is we believe it violates the First Amendment guarantee of unabridged free speech. The framers of the constitution did not intend free speech to be apportioned so long as it was not obscene or otherwise harmful to the common good. Under LB946, an advertising budget of $10,000 pays for only 95 percent of its intended message because 5 percent of the budget is lost to a proposed tax. If you tax free speech, which is only one of five freedoms guaranteed by the First Amendment, you could be interpreted as setting a precedent for taxing the collection plate at church or putting an admission fee on this very hearing room. Respectfully, I thank you for this opportunity, and I urge you to vote against LB946.

FRIESEN [02:07:41] Thank you, Mr. Eckert. Any questions from the committee? Seeing none--

CRAIG ECKERT [02:07:48] Thank you.

FRIESEN [02:07:49] --thank you for your testimony.

DON WESELY [02:08:03] Mr. Vice Chairman, members of the Revenue Committee, for the record, my name is Don Wesely, D-o-n W-e-s-e-l-y, representing the Self-Storage Association. We oppose the legislation and imposing a sales tax on self-storage. We feel that that is rental of space. It'd be akin to charging sales tax on renting to tenants. That's the way we look at it. We have tenants that come in to rent space. So we think it's inappropriate and-- and oppose it. We also know there's another bill tomorrow that would also tax, and so this letter that you've got from our association opposes that bill as well. And it's late, and I'll end with that.

FRIESEN [02:08:46] Thank you, Mr. Wesely. Any other questions from the committee? Seeing none--

DON WESELY [02:08:52] Thank you.

FRIESEN [02:08:53] --thank you.

KORBY GILBERTSON [02:09:05] Good afternoon, Vice Chairman Friesen. Members of the committee, for the record, my name is Korby Gilbertson; it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the following groups: the American Council of Engineering Companies of Nebraska; American Institute of Architects, Nebraska Chapter; American Massage Therapy Association, Nebraska. Chapter; American Property Casualty Insurance Association; Associated General Contractors, Nebraska Building Chapter; Associated General Contractors, Nebraska Chapter; Eastern Development-- Eastern Nebraska Development Council; Greater Omaha Chamber; Homebuilders of Lincoln and the Metro Omaha Builders Association Coalition; Lincoln Chamber of Commerce; the Motion Picture Association; National Association of Insurance and Financial Advisors; Nebraska Federation of Independent Business; Nebraska Academy of Physician Assistants; the Nebraska Association of Trial Attorneys; Nebraska Bankers Association; Nebraska Broadcasters Association; Nebraska Chamber; Nebraska Collectors Association; Nebraska Golf Alliance; Nebraska Health Care Association; Nebraska Hospital Association; Nebraska Independent Community Bankers; Nebraska Land Improve-- Improvement Contractors Association; Nebraska Land Title Association; Nebraska Medical Association; Nebraska New Car and Truck Dealers Association; Nebraska Optometric Association; Nebraska-- Nebraska Petroleum Marketers and Convenience Store Association; the Society of CPAs; the Nebraska REALTORS Association; Nebraska Telecommunications Association; Nebraska Veterinary Medicine Association; Professional Engineers Coalition; Tyson Foods; and the Nebraska Press Association. Nice that I have some time left, but in order to save some-- some time and not have to have a parade of people up here opposing this bill, they asked me to put together a coalition and draft a letter that all of the parties that have signed have approved. A couple comments, as watching these types of bills for the last few decades. The proponents pretty made-- pretty much made our argument for us. We really like this bill but, please take us out of it before you advance it. Our point is, we're not

comfortable saying, trust us, you can come plead your case next year and, maybe or maybe not, your sales-- your tax will be removed. Our opinion is that proper tax reform would be to do it the opposite direction, which would be to involve all of the stakeholders, decide going forward what you would cut out before you pass such legislation. With that, I'd be happy to answer any questions.

FRIESEN [02:11:45] Thank you, Ms. Gilbertson. Any questions from the committee? Did they all pay you to say that? [LAUGHTER]

KORBY GILBERTSON [02:11:53] Thank you.

FRIESEN [02:11:54] Thank you for your testimony.

KEN ALLEN [02:12:02] Good afternoon, Vice Chair and members of the committee. My name is Ken Allen, K-e-n A-l-l-e-n. I'm here as the director of the Board of Barber Examiners. I'm going to echo some of the same stuff as the gentleman over here, Mr. Ferris. My concern is, and our-- the board's concern, if you have service shops, salons along the border of a state that does not charge sales tax, are we going to lose people, clients going across the border to get those services done because they can do them without a tax? We've seen this happen before-- before when Iowa had less tax on fuel. People from Omaha would drive across the border to fuel their cars. Are we going to see the same thing on this type of thing with services? Are they going to go across the border to get their services? That's a major concern. We feel that haircuts is a necessity, if you will. It's more for hygiene and health reasons to get a haircut. People on fixed incomes being charged a sales tax will reduce the number of haircuts per year they get, which would decrease the amount of revenue generated by our-- our barbers. But not only that, the hygiene, that kind of stuff, also increases. We also feel that placing a tax on our type of services will push some of our licensees underground. In other words, they're not going to want to collect or pay sales tax, so they're going to make my job tougher by going and working in basements and garages, cutting behind the scenes, which we don't feel that's the right direction to go either. So with that, I'd be happy to answer any questions.

FRIESEN [02:13:49] Thank you, Mr. Allen. Any questions from the committee? Seeing none--

KEN ALLEN [02:13:54] Thank you.

FRIESEN [02:13:55] --thank you for your testimony. Any others wish to testify in opposition to LB946? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, Senator Briese, would you like to close?

BRIESE [02:14:18] Well, I appreciate everybody coming and testifying, both proponents and opponents, that we know we need-- need to hear from folks in that regard. I think earlier I said why I think this is a good-- a good approach to it. Bring them all in and then let's hear from them. Somebody suggested, well, we-- we don't trust you. Well, this bill is drafted. If we did nothing, I assume we're going to have a-- end up with some sort of transactional gross receipts tax of 1 to 2 percent, worst case scenario. I don't think that would be the end of the world, but that's-- we still don't want to tax some of those items we've talked about here. And somebody else said, well, perhaps put the policy-- or put these items in piecemeal, but, you know, we've filled hearing rooms trying to do things like that in the past and-- and we would do that again if we tried it that way. Might do it trying it this way, too, but anyway, it's all I have.

FRIESEN [02:15:15] Thank you, Senator Briese. Any questions from the committee? Seeing none, we have letters in opposition from Joe Moore, IHRSA; Brandon Kauffman, city of Lincoln; David O'Doherty, Nebraska Dental Association; Tom Venzor, Nebraska Catholic Conference; Patrick Reynolds, Council on State Taxation; Ken Allen, Board of Barber Examiners; Amanda Medrano, Great Clips; Dennis DeRossett, Nebraska Press Association; Allen Beerman, Nebraska Press Association; Dawn Wagner, BCTMB; Sandra [SIC] Kurtenbach, Great Clips; Jim Timm, Nebraska Broadcasters; Bill Lange, Nebraska Self Storage Association;. Michael Simmonds, BDCS Barbershop in McCook; Timothy Huck-- Hupp, Cheyenne, Wyoming. David Brown, Greater Omaha Chamber of Commerce, in the neutral capacity. With that, we will close the hearings on--

BRIESE [02:16:10] Thank you.

FRIESEN [02:16:12] --LB946.

BRIESE [02:16:12] Thank you-- thank you, guys.

FRIESEN [02:16:12] And we will close the hearings for the year.

MARY JANE EGR EDSON [02:16:17] No.

CRAWFORD [02:16:17] No.

CRAWFORD [02:16:17] Tomorrow. [LAUGHTER]