

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Revenue Committee February 24, 2021

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our COVID-19 response protocol

**LINEHAN:** Welcome to the Revenue Committee public hearing. My name is Lou Ann Linehan. I'm from Elkhorn, represent 39th Legislative District. I serve as Chair of this committee. For the safety of our committee members, staff, pages, and public, we ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that everyone utilize the identified entrance and exit doors to the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and Transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which the attendance reaches capacity, it doesn't look like we're going to have that issue this morning. We ask that you please limit or eliminate your handouts. The committee will take up bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please turn off your cell phones. The order of testimony is introducer, proponents, opponents, neutral, and closing remarks. If you will be testifying, please complete the green form and hand to a page when you come up to testify. If you have written materials you would like to distribute to the committee, please hand them to the page to distribute. We need 12 copies for all committee members and staff. If you need additional copies, please ask a page to make copies for you now. When you begin to testify, please state and spell both your last and first name. Please be concise. It's my request that you limit your testimony to five minutes. We will use the light system so you have four minutes on green; and when the yellow light comes on, you need to wrap up. And I will ask you to stop if it goes to red. If there are a lot of people wishing to testify, we will use a three-minute testimony. I don't think that's going to be an issue this morning. If your remarks were reflected in previous testimony or if you would like your position to

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be known but do not wish to testify, please sign the white form on the table outside the room by the entrance and it will be included in the official record. Please speak directly into the microphone so our Transcribers are able to hear your testimony clearly. I would like to introduce committee staff. To my immediate right is committee counsel, Mary Jane Egr Edson. To my immediate left is research analyst, Kay Bergquist. To the left right there at the end of the table is committee clerk, Grant Latimer. Now, I'd like the senators to introduce themselves starting at my far right.

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

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

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

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

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

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

**LINEHAN:** This morning our pages are, stand up. We have Thomas and Turner, both attend UNL and they are studying political science. Please remember that the senators may come and go during our hearing as they may have bills to introduce in other committees. Please refrain from applause or other indications of support or opposition. I would like to also remind our committee members to speak directly into the microphones. For our audience, the microphones in the room are not for amplification, but for recording purposes only. Lastly, we are electronics-equipped committee. Information is provided electronically as well as in paper form. Therefore, you may see committee members referencing information on their electronic devices. Be assured that your presence here today and your testimony are important to us and critical to our state government. So with that, we'll open on LB115, Senator McCollister. Good morning, Senator McCollister.

**McCOLLISTER:** Thank you, Madam Chair. Members of the committee, I am John, J-o-h-n, McCollister, M-c-C-o-l-l-i-s-t-e-r. Today, I'm introducing LB115 to eliminate the exemption from sales tax on purchases of candy and soft drinks. As introduced, LB115 also

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eliminated the exemption for bottled water. It was in the 2020 version of the bill. As a reminder, some small Nebraska communities occasionally have unsafe drinking water. The residents need to use bottled water regularly, so taxing it could create a hardship. LB115 would add candy and soft drinks to the list of products that are excluded from the definition of untaxed food and food ingredients. The effect would be purchases of these products would be taxed at the effective sales tax rate. I call your attention to the definitions of these products that would be taxed. Candy is defined on page 4, lines 8-12. Soft drinks are defined on page 5, lines 27-30. These definitions are in the streamlined sales and use tax agreement. Nebraska has been a full member of this agreement since 2005. Taxing these products is one way to expand the sales tax base. The handout you received shows that in 20-- 2018, the Tax Foundation that 32 states and the District of Columbia exempt groceries from their sales tax base. By January 2019, Bloomberg tax analysis reported the same data. The Tax Foundation and Bloomberg tax also noted the definition of groceries varies state by state. Candy and soft drinks are both excluded from the definitions of groceries in 22 states, 22 states. Nebraska is 1 of only 11 states that consider soft drinks and candy to be in the category of nontaxed food items. Provisions of LB115 on page 7 should eliminate the General Fund impact that were present in the 2020 version of the bill. LB115 includes the operative date of October 1, 2021, to comply with the statutory requirement that our sales tax rate can only be changed at the start of a calendar quarter. You'll hear from the opponents this is a regressive tax that will move all-- adversely affect low-income families. This is a valid concern. But if you look at cigarettes, another unhealthy item that is purchased more by low-income people than higher-income people as a percentage, regressive taxing of this product can lead to health benefits when fewer people use this harmful product. I think the same thing should occur for both pop and candy. In the end, I think the designation-- designation for revenue from this tax to go largely toward the Health Care Cash Fund will offset the regressive effects of a tax like this could have because the money will most likely end up going toward beneficial programs. Thank you for your time and I'm happy to take questions.

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

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**PAHLS:** Thank you, Chair. I have a question and this may be if you've had this bill before or similar to it. You want to give the additional revenue to these particular causes. You know, that-- I understand the healthy. But all I've heard since I've been down here is property tax relief.

**McCOLLISTER:** Yeah, that's-- that's correct, Senator. And-- but the Health Care Cash Fund has been under pressure in recent years. And a number of programs that we've used the proceeds from the Health Care Cash Fund have depleted the fund seriously. So this will help rebuild the balance in that-- in that fund, in that cash fund.

**PAHLS:** And I I don't-- what is-- do you have any idea what that--

**McCOLLISTER:** I can find out what programs--

**PAHLS:** OK.

**McCOLLISTER:** --come out of the Health Care Cash Fund. But, you know, I was agreeable last year if the bill could have made it out of committee to repurpose the money in some other way. So if this bill that received-- would receive serious consideration from the committee, we could sure talk about where-- where the proceeds go.

**PAHLS:** Where the money-- OK. Thank you.

**LINEHAN:** Thank you, Senator Pahls. Are there other questions from the committee? Seeing none, thank you very much. Will you stay to close?

**McCOLLISTER:** Indeed. Thank you.

**LINEHAN:** Thank you. Are there-- are there any proponents, proponents for LB115? OK. Are there any opponents? Good morning.

**ANSLEY FELLERS:** That was quick. Good morning. Thank you, Chairwoman Linehan and members of the Revenue Committee. My name is Ansley Fellers, A-n-s-l-e-y F-e-l-l-e-r-s. I'm the executive director of the Nebraska Grocery Industry Association. I'm here on behalf of the grocers, along with the Nebraska Retail Federation and the Nebraska Petroleum Marketers and Convenience Store Association, testifying in opposition to LB115, which would eliminate the sales tax exemption on purchases of candy and soft drinks. While we appreciate what Senator McCollister is trying to accomplish and want to continue being part of

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discussions on a more fundamental overhaul of our tax system, carving out specific food items to tax is complicated and burdensome for retailers-- retailers and consumers. According to the Tax Foundation, excise taxes in this case on soda and candy are too narrow and regressive to be practical sources of revenue. And evidence of any direct impact on obesity continues to be limited, so it remains entirely unclear whether such taxes have any positive effect on public health. Carve-outs in the tax code are viewed across the political spectrum as poor tax policy, in part because they are complicated and inconsistent. As you can see by the handout, which will be copied and handed out, KitKats are not taxed, Altoids are. A Snickers bar would be taxable for those paying in cash, but it would not be taxable for those paying with SNAP. While there are certainly cities and states which have implemented such changes, the cost of updating a point of sale system to account for such confusion is challenging, primarily for small grocery and convenience stores. When Colorado began-- began taxing candy, soft drinks and water, they discovered 50 percent of convenience store point of sale systems couldn't break out separate categories, and they all required system upgrades. Additionally, the software that can be purchased is imperfect and requires a lot of due diligence by business owners. Well-meaning store managers and clerks have to go through and read every bakery, candery-- candy, and soft drink item label. If you misread a label or skip a product and are audited by the Department of Revenue, the department has the ability to collect back taxes. Finally, Nebraska currently prohibits local communities from assessing an occupation tax on food. By eliminating the exemption on candy and soft drinks, we could also be opening up opportunities for local government-- governments to assess an occupation tax on these products. In Nebraska, the confectionary industry represents an \$85 million economic output, pays \$28 million in wages, employs more than 770 people directly, and supports more than 2,500 jobs indirectly. State legislatures across the country have consistently rejected discriminatory tax-- discriminatory taxes on candy and sweetened beverages. And in some cases, those passed have actually been repealed by lawmakers due to public outcry or rescinded by voters themselves. For these reasons, we ask you oppose LB115. And with that, I'd be happy to answer any questions.

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

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**BRIESE:** Thank you, Chairman Linehan. Thank you for your testimony here today. Iowa does not tax groceries, do they?

**ANSLEY FELLERS:** Correct.

**BRIESE:** But they do tax pop and candy, right? OK. And you're saying Colorado does not tax groceries either but went to taxing candy. When did they do that?

**ANSLEY FELLERS:** I will have to get back to you. I'm not sure.

**BRIESE:** OK.

**ANSLEY FELLERS:** Relatively recently.

**BRIESE:** Not a big deal. But the question that comes to my mind is how did they do it? How do they make this work?

**ANSLEY FELLERS:** They are-- they're making it work. As I mentioned in my testimony, it wasn't easy. But, yes, certainly states are making it work. It's not impossible. It's just challenging, especially for smaller stores.

**BRIESE:** It seems like Iowa did it long ago also, didn't they?

**ANSLEY FELLERS:** Yeah, it's certainly.

**BRIESE:** Without the benefit of the technology that we have today--

**ANSLEY FELLERS:** Right.

**BRIESE:** --it seems to me. OK.

**ANSLEY FELLERS:** Yep.

**BRIESE:** Thank you.

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

**PAHLS:** Thank you, Chair. The question I have, I know it's complicated, but once the cash registers and all that are set, it's an automatic thing. It's not a daily-- it's hard to go to the grocery store. They

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automatically know what certain things are not taxed. So now it seems  
to work. So this would cost so much to upgrade their machines?

**ANSLEY FELLERS:** Currently, yes. And I think, as you'll see and I  
apologize, I ran out of colored ink. So the clerk or the page is  
making copies for you. And you'll see there isn't a lot of consistency  
in what you consider candy and soda and sweetened beverages. So in  
some of these cases, the equipment upgrades, what we're hearing from  
stores and what we heard from other states is that it's manual entry.  
It requires manual entry. It requires clerks and store managers to  
make sure they're properly taxing certain things. And in that sense,  
you know, if a KitKat is taxed but a Snickers isn't or Twizzlers  
aren't taxed because they have enough flour, but raspberry sweet tea  
is, you know, some of those things are a little confusing. And at the  
end of the day, we just are concerned that it's, again, a complicated  
and expensive method of taxation for-- but the cost doesn't outweigh  
the benefit in this case.

**PAHLS:** Apparently, it must in Iowa, because they can do it.

**ANSLEY FELLERS:** You know, I would be interested. I don't have the data  
in front of me. I would be interested to know. It happened so long ago  
I think in Iowa. I would be curious to know if that, the math plays  
out.

**PAHLS:** Thank you.

**ANSLEY FELLERS:** Thank you.

**LINEHAN:** Thank you, Senator Pahls. Are there other questions from the  
committee? They already have to have a syst-- I mean, I understand  
small mom and pop shops, maybe they don't, though. I don't know how  
anybody could not now, because Senator Pahls's point when you go to  
the grocery store to buy dog food, you pay taxes. You buy hot chicken,  
you pay taxes; cold chicken, you don't pay taxes. I mean, this-- there  
is a lot of like they have to do that already. This isn't-- am I  
right, the KwikShop, you pay sales tax on a fountain drink, but not on  
a soda that you get in a can?

**ANSLEY FELLERS:** Yes, we tax prepared food, but not raw groceries.

**LINEHAN:** So they already have to go through these.

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**ANSLEY FELLERS:** Yeah, to some extent. Although I would say it's also, it's consistent among products, right, unlike this, which wouldn't. So all fountain soda is taxed, right? It's not but some of it's taxed and some of it isn't.

**LINEHAN:** Would you be OK if we were taxing it all instead of some of it?

**ANSLEY FELLERS:** So I'm glad you asked that question. Officially, the position of the grocers in our industry is that we oppose a tax on food. But I will tell you that for consistency's sake for consumers and for business owners, a tax on food would be less burdensome than the picking and choosing involved in taxing things like this. I would also say that there are conversations among my board of directors and others that we want to be part of the discussion. Right? So we understand that there's a desire to broaden the tax base. So we don't want to continue saying no, no, no. And again, it would be less complicated than something like this. A rate, a lower rate on food than other things would also be somewhat less regressive and I think easier to swallow for consumers and grocers and convenience stores. But I would also like to state for the record that we still think taxing goods, especially groceries, is far more regressive than taxing something like services.

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

**ANSLEY FELLERS:** Thank you.

**LINEHAN:** Other opponents?

**BRIAN GILLILAND:** Good morning. Good morning, Chair-- Chairwoman Linehan and members of the Revenue Committee. My name is Brian Gilliland, B-r-i-a-n G-i-l-l-i-l-a-n-d. I'm a general manager for Chesterman Company. We're the state's largest local distributor of Coca-Cola products. I'm appearing before you today as the president of the Nebraska Beverage Association in opposition to LB115. The Nebraska Beverage Association has represented the nonalcoholic beverage industry and local distributors of Coca-Cola, Pepsi, and Dr. Pepper products in this state for more than four decades. In those 40 years, the beverage industry has contributed substantially to our neighborhoods, communities, and the Nebraska economy by providing good



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paying jobs, charitable donations, and a sizable amount of tax dollars. Last year, our industry provided over 1,400 jobs in the state. Our members also contributed over \$75 million in state taxes, and we donated over \$8 million to charitable causes across the state in 2019. In response to the historic flooding in 2019, our national and local distributors donated bottled water, soft drinks, and direct financial relief. PepsiCo, LinPepCo, Chesterman Company, and Keurig Dr. Pepper donated over 13,000 cases of bottled water, and the Coca-Cola Foundation pledged \$100,000 to the Red Cross. Our companies made these donations because we believe safe drinking water is a necessity. While our members obviously have a desire to help local communities, we're still businesses with payrolls to meet and other expenses to pay. Imposing a sales tax, yes, these donations would be subject to sales tax, would change the calculus by increasing the cost to make the donation. The Nebraska Beverage Association opposes the imposition of sales tax on soft drinks and the exclusion of our products from the definition of food. Our products are food. We do not believe they should be separated out and taxed differently than any other grocery. Our products also vary widely in their ingredients from juices, coffee, soft drinks, and dairy. The categorization of what would be taxed and what wouldn't be taxed gets very complex. We don't believe that the state should further complicate the process of buying groceries for Nebraska families or increase their grocery bills, especially while many families are still struggling to keep food on the table during this pandemic. We know that sales tax on soft drinks are regressive. This type of flat tax places a large burden on consumers who are lower-income earners. LB115 would be taking more money out of those families' pockets. This is not the time to be picking winners and losers of what gets taxed when it comes to, at the expense of increasing a family's grocery bills. We find no rationale for imposing the sales tax other than it's not being taxed right now. In the past, it's been proposed as a health initiative. Arguments that our products are not healthy have been refuted in research over the years. In fact, over 55 percent of our products offerings are zero or no calories. Tastes have changed over the years and our industry is meeting the increasing demands for healthier products. We object to the imposition of tax on our products, which in turn increases bills for Nebraska families, all for the purpose of increasing state spending. For these reasons, the Nebraska Beverage Association is opposed to LB115.

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**LINEHAN:** Thank you very much.

**BRIAN GILLILAND:** Thank you.

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

**BRIESE:** Thank you, Chairman Linehan. Thanks for your testimony here today. I'm assuming your-- your opinion is that this would be detrimental to your industry, correct?

**BRIAN GILLILAND:** Absolutely.

**BRIESE:** I'm not sure I even heard that said, but-- and surely you have ran the numbers. And to what extent would imposition of sales tax on these products impact the beverage industry, beverage sales?

**BRIAN GILLILAND:** I can't give you hard numbers on that. Our-- I can tell you that our industry, as much as any industry there is, is incredibly competitive and very price sensitive. So when we get to price points at \$1.99 or \$3.99 or \$5.99, anything that takes us over that price point impacts sales. So I don't think there's any question that adding a 7 percent tax would either cause us to reduce margins, which would negatively impact our business or reduce sales.

**BRIESE:** You know, you talk about elasticity of demand. I guess I'd like to have somebody tell me what this would do to sales, if any, if anything.

**BRIAN GILLILAND:** Yeah, I-- I can't tell you right now that we have good information on that.

**BRIESE:** OK, thank you.

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

**PAHLS:** Thank you, Chair. What amazes me, I know, the-- you said cost is significant. But I'm amazed. I go to the grocery store and I can buy four cases or 12 packs at unbelievable rate on sale days. I mean, they do that on a regular basis.

**BRIAN GILLILAND:** Yeah.

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**PAHLS:** So to me, you have to be losing something on that.

**BRIAN GILLILAND:** So on cans, that's a lot of grocery stores, we use cans along with other items, bread or milk as loss leaders, so they put that in their ad to draw consumers in. Our-- our products are included in that group of items. So we reduce our margins when those ads come out and the grocers, in turn, reduce their margins. So, again, it's a loss leader to pull in consumers.

**PAHLS:** I understand that concept. But I tell you, I think I could go almost any, every other week and they have those loss leaders on especially on pop, whether it be your product or another product.

**BRIAN GILLILAND:** Correct.

**PAHLS:** So that's just you just-- that's just the cost of doing business, is what you're saying.

**BRIAN GILLILAND:** It is. It is.

**PAHLS:** Thank you.

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

**BRIAN GILLILAND:** Thank you for your time.

**\*BUD SYNHORST:** My name is Bud Synhorst, President & CEO of the Lincoln Independent Business Association. LIBA represents over 1,000 businesses primarily located in Lincoln and Lancaster County and a significant part of our mission is to communicate the concerns of the business community to elected and appointed officials at all levels of local government. Chair Linehan and members of the Revenue Committee, thank you for your time and for your service to Nebraska. I am testifying in opposition to LB115. Excise taxes have long been used by governments as a weapon to affect the price of products to a point where it becomes financially burdensome to continue purchasing. LB115, while not specifically an excise tax, acts as much where it targets specific products to remove their tax exemption status. LIBA is opposed to LB115 for a number of reasons. First, there is little evidence to suggest that a tax on soda and candy largely affects consumer choices. As other states and municipalities have seen, the percentage drop in sales is often offset by consumers purchasing the

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same products just outside the regulation zone. We can assume that with no direct excise tax on soda and candy, the percentage drop of those products in Nebraska will be even lower than current states have seen. Therefore, the real purpose of this tax is to create another stream of revenue for the Legislature to spend. Moreover, a tax on soda and candy does not fix the obesity problem proponents would argue this bill addresses. Obesity is not caused by simply drinking soda and eating candy, there are a series of choices consumer makes and variables to consider that leads someone to become obese. Previous excise taxes on products such as cigarettes were so specifically targeted because that product could be a direct link to detrimental health affects. However, there is no single food that can be pinpointed as a cause of obesity. Finally, soda and candy taxes are regressive. A 2006 study found that "fat taxes" harmed low-income families more than higher-income families. In the study sample, families with high incomes (> \$100,000 annual income) suffered only \$24.29 in increase taxes, half the \$47.38 tax increase by poor families < \$20,000 annual income). A 2008 study published by the Journal of Urban Health found an association between soda consumption and race, age, and income. The paper found that individuals with low incomes were nearly twice as likely to purchase and consume soda as were those whose incomes were significantly higher." LB115 will not significantly alter consumer preferences or impact the obesity problem, and most directly impacts lower income families. Must we not let Nebraska become more and more like a "nanny state" and let consumers have the freedom of choice? I urge the Revenue Committee to not pass LB115 out of committee.

**LINEHAN:** Uh-huh. Are there other opponents? Are there any other opponents? Is there anyone wanting to testify in a neutral position? Senator McCollister, would you like to close?

**McCOLLISTER:** Yes, ma'am. What makes for good tax policy when it comes to sales tax, and I would contend that a low, broad sales tax is the best policy. That's confirmed by both the Platte Institute and OpenSky and any other think tank that you can think of recommends a low, broad tax. South Dakota, for example, absolutely taxes everything, everything. We don't here. Nebraska has a narrow tax. And as we-- as I served on this committee last year, we went through all the products and services that could be taxed in an effort to bring in some additional revenue. Nebraska has a narrow sales tax, a high income tax, and lord knows a high property tax. So, you know, sales tax is

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about the only place that we can go. In fact, Senator Pahls, in his first two terms in this body, proposed getting rid of all the exemptions that we had. You should ask him about that in Exec Session. We employed a pretty good process last year when we went through all the items of goods and services that we could tax. And if you're an outlier, as Nebraska is on this particular product, sales of can-- of pop and candy, only 11 other states in the country give an exemption to pop and candy. So it's not an imposition for these retailers to, you know, reduce or eliminate the exemption for these products, not at all. They do it in Iowa and for sure they can do it in Nebraska. Nebraska is an outlier when it comes to these two particular products. And it's time we change it. Where the money goes, you know, I think the basis on the bill is Health Care Cash Fund, because you could contend that these products are unhealthy. And the Health Care Cash Fund would be a logical place to put that money. But, you know, we can talk about where that money should go, \$33 million. And that's-- that's a lot of money. So with that, I'll conclude.

**LINEHAN:** Thank you, Senator McCollister. Are there questions from the committee? So yours doesn't tax-- this doesn't tax bottled water.

**McCOLLISTER:** Correct.

**LINEHAN:** OK. Does this fiscal note seem larger than it was last year to you?

**McCOLLISTER:** Say again.

**LINEHAN:** Does the fiscal note seem like it's more revenue than it was? I thought it was \$20 million when we included water. But my memory--

**McCOLLISTER:** I think it was \$30 million but.

**LINEHAN:** \$30 million, OK.

**McCOLLISTER:** And I think it's \$33 million this year so.

**LINEHAN:** OK. All right.

**McCOLLISTER:** Your legal counsel is saying yes.

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**LINEHAN:** OK. But that included water. Right? But that seems a little odd. OK, all right. No other questions. Thank you very much, Senator McCollister.

**McCOLLISTER:** I'll be right back.

**LINEHAN:** We did, excuse me, we did have one opponent testimony delivered this morning from Bud Synhorst for LIBA. And then we had LB115, we had five proponents who submitted letters for the record, six opponents, and no one in the neutral position. And now we go to LB457. Senator McCollister.

**McCOLLISTER:** Thank you, Madam Chair. And good morning, former colleagues and members of the Revenue Committee. Today, I'm introducing LB457. The bill was requested by the city of Omaha. I know the city of Omaha's finance director, Stephen Curtiss, will testify as a proponent. Since 1987, the state of Nebraska has supported economic incentive programs, starting with the passage of LB775. Even though LB775 was replaced by another program last year, some applicants under the original incentive act are still making claims for the income and sales tax credits. In 2005, Nebraska revived LB775 incentives with the passage of the Nebraska Advantage Act. The Advantage Act is set to expire at the end of 2020, but successful applicants can continue to claim income and sales tax credit for at least 20 more years. Presumably, the credits will decrease as time goes on. LB457 was not introduced to take issue with the benefits generated by economic incentive programs. Instead, I'm offering LB457 to help cities budget for local option sales tax refunds. Under these incentive bills, successful companies may claim both sales, state sales and local sales tax credits. When a company decides to ask for these credits in the form of refund, cities do not have enough time to budget for them. LB457 would continue the practice of notifying cities when refunds are over \$1,500. The bill would also allow the cities of Lincoln and Omaha to have a one-year cushion in order to budget and therefore pay for their local sales tax refunds over the course of one year if those refunds are over \$1 million on an annual basis. Nebraska allows this type of protection now for smaller cities and villages if more than 25 percent of their local option sales tax is refunded in a prior year. I believe that we should offer the same type of protection to our larger cities. Omaha city officials will tell-- tell me they will do their best to budget for these refunds. However, the exact amounts can fluctuate widely and leave the city facing a budget deficit if too

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much of their local sales tax revenue is refunded in a given year. LB457 would be helpful to cities, particularly Omaha and Lincoln. The proponents of LB457 will follow me and describe in more detail the objectives of this proposal. Be happy to answer any questions if you have any.

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

**McCOLLISTER:** I won't be able to stay for a closing.

**LINEHAN:** OK, you're not going to. OK.

**McCOLLISTER:** Thank you.

**LINEHAN:** Thank you very much, Senator McCollister. Proponents for LB457.

**STEPHEN CURTISS:** Good morning, Chairperson Linehan and Senators. My name is Stephen Curtiss, S-t-e-p-h-e-n, Curtiss, C-u-r-t-i-s-s. I'm the finance director for the city of Omaha, and I'm here today to testify in support of LB457. And thank you to Senator McCollister, who had this slip out, for introducing it. LB457 will provide budget certainty to the city of Omaha as it relates to sales tax refunds in the Nebraska Advantage Act and in the Employment and Investment Growth Act. It accomplishes-- accomplishes this with no fiscal impact. And I'll explain why. I think there's been a misreading of this bill. It's never been our intention to have any sort of year holiday. All this does is provide in any year in the future, it provides a mechanism so we have a certain number and no longer have to guess. But we would pay the actual amounts all the way up until that year becomes in effect. This would affect the metropolitan-class cities, along with, I believe, the primary-class cities, the metropolitan-class cities, code word for Omaha, is the majority of those refunds in the first place. And again, there is no fiscal impact because we're not requesting one. And we would accept any amendment if the Department of Revenue felt like revenue clarified or a wording clarification was necessary, although I think they've misread the way that this bill actually works. The current city of Omaha budget process involves a guesstimate based on our prior years payouts. Our usual guesstimate is an 8 to 10 million range. But we've had some years that vary widely or wildly, and it's caused quite a problem. In fact, in 2020, we had a budget

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estimate of about 9 million and the number based on early returns was going to clearly be more like 18 to 20 million. So because of that, we had to stop police hiring, stop fire hiring, stop buying police cars and institute budget cuts, budget reductions, but hiring freezes and spending cuts. And that is pretty disruptive to the city when you have that kind of swing. And I think this bill could certainly clarify that and keep that from occurring in the future. LB757 [SIC LB457], as I said, has no fiscal in part because we're required to pay under our reading-- and again, we would accept any amendment that the Department of Revenue would like to make it clear to them-- we'll pay our actual amounts all the way up until the year this projected amount is used. The projected amount just allows us to have a budget certain number. As that particular year would roll out, we could either overpay or underpay based on what that projection was and that overage or underage would be rolled into the next year's estimate and cleared up in the following year. So we could just as easily be overpaying as underpaying. Lastly, LB457 harmon-- harmonizes the language in these current acts to mirror the language that's been adopted in the Imagine Act that was passed last year. So this is language that's already in place for the current program. We're just asking for it to be in place for the existing programs. And with that, I'd be happy to answer any questions.

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

**FRIESEN:** Thank you, Chairwoman Linehan. So if I were a member of the past, the cities, especially Omaha, they do budget what they consider an average amount of refunds because they are planning ahead. Is that correct?

**STEPHEN CURTISS:** Yes.

**FRIESEN:** And so what you're saying is that if it exceeds that amount budgeted, that's when this would come into play?

**STEPHEN CURTISS:** So the way this would actually work is the department would give us a number that we all agree, but it would be up to them, would give us a number that they believe is the proper number based on prior years. So, for instance, they'd say use \$10 million this year and we'll deduct \$10 million all year long. And then if in that particular year the real refunds were \$9 million, then that extra million would be subtracted from our next year's payout as that



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continued. So it'd be self-correcting as each year went on. If for some reason it was \$11 million, then they'd add a million to that, whatever their estimate was for that next year. It'd be the proper estimate plus the plus or minus from the prior year.

**FRIESEN:** So the biggest concern to you guys is that the surprise, huge refund that [INAUDIBLE]

**STEPHEN CURTISS:** Yeah. We have no way to-- we have no way to do anything about a giant surprise like the one we had in 2020 other than pretty drastic budget cuts and freezes.

**FRIESEN:** The only other way would be to either budget a higher amount and start to pool some money knowing that those are coming.

**STEPHEN CURTISS:** It could be, but then it kind of flies in the face of that year that comes in at 4 or 5 million. Then you have all these extra dollars and citizens are wondering why are you budgeting all these extra surpluses?

**FRIESEN:** Thank you.

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

**FLOOD:** Thank you, Mr. Curtiss, for coming. I can see your point here. So if the Department of Revenue gives you this estimate, what happens if they're wrong? Because sometimes people can hold onto those credits and use them at different times. So let's say they tell you \$10 million. And unbeknownst to anybody, somebody does \$20 million some month, I don't know, but what would happen in that situation?

**STEPHEN CURTISS:** That \$10 million would be rolled into our next year's number, but at least we'd have a year to plan for it. Sort of to the senator's question, it'd be a big number, but we'd have the ability to plan a year ahead and figure out how we're going to pay for that.

**FLOOD:** So would the state-- what happens if we get out of sync? You know, like.

**STEPHEN CURTISS:** The out of sync that you're suggesting could only be for about a 12-month period and it could just as easily be on us as them, meaning they could say, hey, we've had some really big ones.

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Here's \$16 million, use that and then the real number is 8, well, that  
8 would be on us for that one year.

**FLOOD:** Would there be any way that we could end up accruing like a, I  
don't know, \$100 million, I mean, I don't know how much?

**STEPHEN CURTISS:** No, because it can only go one year and the  
difference would not normally be more than 5, 6 to 8 million would be  
giant. These normally run in the 6 or 7 million on the low end, 10 to  
12 million on the high end. 2020 was an outlier, but it was a good  
example of that issue that we had that became a drastic issue for the  
city of Omaha.

**FLOOD:** So is it a rolling 12 months where you're constantly updating,  
you know? I-- I-- or is it like a calendar year that you're talking?

**STEPHEN CURTISS:** It'd be a calendar. We wrote it specifically so it'd  
be a calendar year. But again, we weren't expecting and didn't write  
this to get any sort of benefit to us for a delay of payment. And I  
think that's what the Department of Revenue may have misunderstood.

**FLOOD:** I don't know much about how this works at the Department of  
Revenue, but do they have a pretty good handle on-- are they talking  
to their people that have credits and they kind of know what's coming?

**STEPHEN CURTISS:** They seem to know and in fact, in this year that we  
had the \$18 million, they sent us something to say, hey, expect this  
first one to be pretty big and I forget, it was 6 or 8 million. We've  
had a little trouble ferreting out. But as we get that report, we've  
already finished our budget. So it still isn't timely enough to get  
our budget straightened out.

**FLOOD:** When you get a notice this is going to be fairly big, you just  
hit the floor.

**STEPHEN CURTISS:** All we can tell is all the departments watch out  
because we're going to have to start cutting right away when January  
hits. And, well, this particular year, we stopped spending in the fall  
because we knew this was coming.

**FLOOD:** OK, thank you.

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**LINEHAN:** Are there other-- thank you, Senator Flood. Are there other questions from the committee? So you would pay the total, but you would just have a little more time to pay the total?

**STEPHEN CURTISS:** Absolutely. Or we could overpay the total, which is what our point was. It's not clear there's a fiscal note because we could just as easily be overpaying as underpaying and we're fine with that. It just gives us some budget certainty.

**LINEHAN:** OK. All right. Other questions? Seeing none, thank you.

**STEPHEN CURTISS:** Thank you.

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

**CHRISTY ABRAHAM:** Good morning, Senator Linehan and members of the Revenue Committee. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m. I'm here representing the League of Nebraska Municipalities and we just want to echo what Senator McCollister and Mr. Curtiss have already told you. Since about 2012, cities of the first class, second class, and villages have had similar provisions in law relating to the Employment and Investment Growth Act and the Nebraska Advantage Act. So we just want to say we're supportive of Lincoln, Omaha joining this group so they also have a little bit more notice and flexibility to-- for budgeting purposes the way the smaller communities do. So thank you so much for your time today.

**LINEHAN:** Thank you, Ms. Abraham. Is there questions from the committee? Senator Pahls.

**PAHLS:** Thank you, Chair. I'm just curious, what year did this happen for the other cities and towns?

**CHRISTY ABRAHAM:** Yes, according to my notes, Senator Pahls, it went into effect in 2012 for cities of the first class, second class, and villages. And I think it's because they were smaller. And so, you know, even a smaller amount of refund sort of threw their budgets into problems. And so their standard is 25 percent of their budget. So if it's-- if it meets that threshold, then the state sort of gets to do this 12-month--

**PAHLS:** Right.

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**CHRISTY ABRAHAM:** Yes.

**PAHLS:** I'm just curious. I don't think you were with the League that  
year. Were you at the League that year?

**CHRISTY ABRAHAM:** No, I was with the Government Committee in 2012.

**PAHLS:** Oh, I can recall that.

**CHRISTY ABRAHAM:** Yes, Senator Pahls, you and I were together in 2012  
on the Government Committee.

**PAHLS:** That's history. The question I have is if it was good for the  
other towns and villages and cities, why weren't the larger  
communities involved? Do you under-- do you see what I'm--

**CHRISTY ABRAHAM:** And I apologize. I don't know that history other than  
I'm just making guesses, Senator Pahls, that because Lincoln and Omaha  
were so much larger, maybe there was a thought that they would be more  
able to absorb these than the smaller communities. But as Omaha has  
testified, they did sort of have a drastic year in 2020. So I think  
it's appropriate to-- to bring them in so they have these same  
provisions.

**PAHLS:** Thank you.

**CHRISTY ABRAHAM:** Thank you, Senator.

**LINEHAN:** Thank you, Senator Pahls. Are there other questions from the  
committee? Seeing-- oh, Senator Friesen.

**FRIESEN:** Thank you, Chairwoman Linehan. So we recently heard a bill  
that would give these companies, I think in the Imagine Act they're  
just giving them a certificate so they don't-- an exemption so they  
don't pay the tax to start with. So this just mostly deals with the  
Advantage Act as it currently is?

**CHRISTY ABRAHAM:** Right. And as-- as Senator McCollister mentioned, in  
the Imagine Act, these similar provisions are for all classes of  
municipalities. So this bill only deals with what we call LB775 and  
the Nebraska Advantage Act. It's for these-- those two acts only.

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**FRIESEN:** So how many more years of that happening? There's probably  
another 10 to 15 years?

**CHRISTY ABRAHAM:** I-- I understand that there could be several more  
years under the Nebraska Advantage Act. Yes, Senator Friesen.

**FRIESEN:** OK, thank you.

**CHRISTY ABRAHAM:** Thank you.

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

**CHRISTY ABRAHAM:** Thank you so much.

**LINEHAN:** Are there other proponents? Are there any opponents? Is there  
anyone wanting to testify in the neutral position? We had no written  
testimony was submitted this morning, and there was-- there were no  
letters for the record. So with that, Senator McCollister left, right?  
So with that, we'll bring to close LB457.

[BREAK]

**LINEHAN:** OK, my name is Lou Ann Linehan, I'm from Elkhorn and  
represent Legislative District 39. I serve as Chair of this committee.  
For the safety of our committee members, staff, pages and public, we  
ask those attending our hearings to abide by the following procedures.  
Due to social distancing requirements, seating in the hearing room is  
limited. We ask that you only enter the hearing room when it is  
necessary for you to attend the bill hearing in progress. The bills  
will be taken up in the order posted outside the hearing room. The  
list will be updated after each hearing to identify which bill is  
currently being heard. The committee will pause between each bill to  
allow time for the public to move in and out of the hearing room. We  
request that everyone utilize the identified entrances and exit doors  
to the hearing room. We request that you wear a face mask while in the  
hearing room. Testifiers may remove their face covering during  
testimony to assist committee members and transcribers in clearly  
hearing and understanding the testimony. Pages will sanitize the front  
table and chair between testifiers. Public hearings for which  
attendance reaches seating capacity-- I don't think we're going to do  
that today. The community-- excuse me, the committee will take up the  
bills in order posted. Our hearing today is your public part of the

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legislative process. This is your opportunity to express your opposition-- excuse me, your position or your opposition on the proposed legislation before us today. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please turn off your cell phones. The order of testimony is introducer, proponents, opponents, neutral and closing remarks. If you will be testifying, please complete the green form and hand it to a page when you come up to testify. If you have written material that you would like to distribute to the committee, please hand them to a page to distribute. We need 12 copies for all committee members and staff. If you need additional copies, please ask a page to make copies for you now. When you begin to testify, please state and spell both your last and first name. Please be concise. It's my request, we're going to limit testimony to five minutes today. You've got four minutes on green and then when it turns yellow, you need to wrap up and I will ask you to cease at red. If there are a lot of people wishing to testify, we will-- well, we aren't going to do that. If your remarks were reflected in previous testimony, if you would like your positions to be known but do not wish to testify, please sign the white form on the table outside the room by the entrance. It will be included in the official record. Please speak directly into the microphone so our transcribers are able to hear your testimony clearly. First, I'd like to reduce-- introduce committee staff. To my immediate right is committee counsel, Mary Jane Egr Edson. To my immediate left is research analyst, Kay Bergquist. The far end-- left of the table is committee clerk, Grant Latimer. We are short some Senators today, as you can see, because we've got them in other-- we're getting toward the end where everyone's got to get their bills introduced so they will be coming and going, but we'll start with these here.

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

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

**LINEHAN:** I thought I saw Briese. Well, he'll be back hopefully. OK, and Senator-- I know the rest of them have all got bills in front of other committees. This afternoon our pages are, gentlemen, Jason, who is at UNL, political-- majoring in political science and history. And Reid, who is at UNL, majoring in ag economics. Please remember that Senators may come and go during our hearing as they have bills to introduce in other committees. Please refrain from applause or other indications of support or opposition. I would also like to remind our

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committee members to speak directly into the microphones. For our audience, the microphones in the room are not for amplification, but for recording purposes only. Last, we are electronics equipped committee. Information is provided electronically as well as in paper form. Therefore, you may see committee members referencing information in their electronic devices. Be assured that your presence here today and your testimony are important to us and critical to our state government. With that, we will open on LB26. Senator Wayne always makes me nervous when he's walking in.

**WAYNE:** No, you know-- I guess I'd better introduce myself first. Good afternoon, Chair Linehan, and the 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. On a completely different side note, I was walking down the hall and LaMont was walking with me, Angenita was in the hallway, Senator McKinney and his staff, Mike, and it just dawned on me, I've never seen that many African-Americans in this building, especially in the same hallway in the four years that I've been here. So we are getting better. And I thought that was just pretty cool, just kind of hit on me. Now, we quickly dispersed because we don't want to be called the gang, but no, but it was just something cool that for four-- over four years. So I digress, I'm sorry. I just felt like I should share that with people because not every day you get to see that. I am here to introduce LB26, which would repeal the sales tax on the use and-- use and consumption for residential water in the state. This was an amendment that sprung on the floor last year during debate on Senator Lindstrom's bill and after looking into it, I know Senator Chambers brought the bill last year. I thought it should come back because in most states, residential water is not even taxed. In Nebraska, we tax residential water, but we don't tax bottled water. And I think we have that completely backwards. And it just made me think about and look through our tax code as it relates to agriculture. Agriculture is one of the few industries that we don't tax all the way through from inputs to manufacturing into the retail. And we don't do so because we consider ag, food for life that people need it. It's something that we have to have. And I think of water in the same capacity as we have to have water or we can't live. So I don't think we should have taxes on it. I think the problem that we have with double taxation on the inputs as well is something this committee should address, but I did not try to address that this year

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because for three-- four years pounded in my head was fiscal note, fiscal note, fiscal note, so we just decided to focus on the residential water. The fiscal note shows how much is drained from our economy and MUD predicts that they will lose 6.7 million in revenue. And I know it sounds like a lot of money, but that also means that we're paying that much money in taxes on something that we need to survive. And so it doesn't make sense to me. I can walk into a Q-Tip-- Q-T, or 7-Eleven and pay a sales tax-- or not pay a sales tax on a bottle of water, but if I open up my faucet sink and pour a cup, I do. And that's what this bill is about. It's pretty simple. And I'll be-- I'll ask-- answer any questions.

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

**PAHLS:** Senator, I'm looking at the fiscal notes for all three of the bills that we're going to have this afternoon. And I'm looking at the year '22-23, and it says a little over \$8 million. OK, I'll just show you the particulars. So this cost \$8 million, the state. Then I come over here. The next bill deals with farm trailers, and that same year it'll be 6,650,000. So just right-- and then I look at ethanol. We want to make sure the yeast that they use in ethanol, that's going to be almost a million dollars-- or 934,000. What I'm trying-- the point I'm trying to get across, we have a lot of bills with fiscal notes, of course, which comes from this other committee. Why would I vote for your bill over farm trailers? Basically, it's the same, because I can't do everything.

**WAYNE:** You're absolutely right. I would tell you that an individual can live without a farm trailer. An individual cannot live without having water. When people say water is life, that's literally what it means. We have to be able to have water. And what's more interesting is that if I'm a business, I get to write that off. So that same farmer who's paying taxes on their trailer, they don't pay farm-- they don't pay the taxation on their inputs to water, nor do they pay if they're outside the city limits, taxes on their drinking water. But people inside, mainly inside the city limits who have residential water, have to pay a tax.

**PAHLS:** Just-- I'm going to ask that, point of clarification. If I live like my grand-dad out on a farm, that water is not taxed because that's not hooked up to the system.



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**WAYNE:** It could be taxed, but the farm use for irrigation purposes is not taxed. And if I'm at Kellogg's and I use water to make Cheerios, it's not-- it's tax, but I get to write that off as a-- as a business expense. Residents don't have the same luxury. So the difference is water. One, is life, and two, from businesses perspective, I don't get to write that off as I do with-- I do with the trailer and the tax that's included on that trailer.

**PAHLS:** Thank you.

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

**WAYNE:** Thank you.

**LINEHAN:** Are there proponents? Good afternoon.

**DOUG KAGAN:** Good afternoon, Doug Kagan, D-o-u-g K-a-g-a-n, Omaha, representing Nebraska Taxpayers for Freedom. We support LB26 for several reasons. Foremost our state does not tax most food like that purchased at the grocery store because legislators believe they're the basic necessity of life. We maintain that water is a necessity of life also and should not be taxed. Within the Omaha metropolitan area, utility ratepayers face skyrocketing bills stemming from the unfunded federal mandate to implement sewer water separation. Other Nebraska communities could face a similar financial mandate in the future. Because the sales tax applies to an entire statement, the tax totals a whopping 7 percent of the total bill. And I have a sample here of my own bill. This tax makes it more difficult for senior citizens and families with limited incomes to remain homeowners, especially during this pandemic. The City of Omaha maintains that it needs this additional sales tax revenue, yet I saw their sales tax revenues steadily increase. Nebraska already allows businesses to claim water tax exemption if more than 50 percent of their utility services used for, or directly consumed in processing, manufacturing, refining, farming or for purposes-- or for purchases of water used for irrigation of agricultural lands. Adding this exemption to residential properties seems only fair. This tax does not base on consumer purchasing activity or for private services like other sales taxes we pay, but on a government service. Many states disallow taxes on water used by residential customers, including owned residences, condominiums, rentals, fraternity and sorority houses, and nursing and

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other care facilities. These states include our neighbors, Missouri and South Dakota. Other states include Minnesota, Montana, Idaho, Illinois, Kentucky, Louisiana, Nevada, New Hampshire, New Jersey, Ohio, Oklahoma, Oregon, Rhode Island, Virginia and West Virginia. Therefore, we ask you to advance LB26 to the full Legislature for debate. Thank you.

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

**PAHLS:** Thank you, Chair. Mr. Kagan, you had an example in your bill?

**DOUG KAGAN:** Yes.

**PAHLS:** Would you mind-- I'm not trying to get into your personal life--

**DOUG KAGAN:** No, that's OK.

**PAHLS:** --but what if-- what would be the taxes on this particular matter?

**DOUG KAGAN:** Well, this is a bill I got yesterday and this is the MUD bill so it wouldn't be like bills in other parts of the state. But by state law, MUD has to itemize. So you have gas, you have water, and then the city of sewer separation tax. The sales tax at the bottom is on all three. So the bill at hand here would take it off water only, but it would-- it would, you know, it would save people some money every month. Now, my sales tax between January 22 or February 19 was \$13.77, and that adds up every month.

**PAHLS:** That's on water.

**DOUG KAGAN:** That-- no, that's on the total.

**PAHLS:** OK, what's your sewer separation?

**DOUG KAGAN:** Well, it doesn't itemize the sales tax, so you'd have to extrapolate, and I would say that for the water, it's probably less than half of that.

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**PAHLS:** OK. Well, then, what was your total cost? Because I'm trying to get at-- what was the total cost of your sewer separation because that's--

**DOUG KAGAN:** The sewer separation tax-- the part. That's-- that's the largest part of almost, well, it's \$43.40. But-- but that-- that's usually the bigger part of the bill. The reason it's not that this month, we have the cold weather and so the gas was higher, but it was.

**PAHLS:** OK, you said it was \$43?

**DOUG KAGAN:** Yeah, the sewer separation charge is \$43.40.

**PAHLS:** OK. And it's really interesting because I know-- I know where you live and you live in a much nicer place than I live and my last one this month was \$57 on sewers-- the sewer. It's-- no, I'm not talking about sales, just as sewer separation.

**DOUG KAGAN:** Yeah, OK.

**PAHLS:** You know somebody? [LAUGHTER]

**DOUG KAGAN:** I wish I did.

**PAHLS:** OK, because I'm really surprised because my place is smaller than yours. Doesn't-- not as nice an area, so I think something shady is going on here.

**DOUG KAGAN:** Well, I live by myself, maybe I don't use my sewers as much.

**PAHLS:** Well, I live by myself too, so you're not getting away with that. OK, I'm just-- what I'm trying to show is there are an awful lot of fees other than just a sales tax on this, but that it's hitting you up, you said \$13--

**DOUG KAGAN:** Yeah.

**PAHLS:** --but then you put in the sewer separation, which a lot of cities do not have, so we're-- we're really getting in your pocket, aren't we?

**DOUG KAGAN:** Well, the sewer separation was a federal mandate.

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**PAHLS:** I understand.

**DOUG KAGAN:** Yeah, and that goes up every year.

**PAHLS:** Oh, really? Mine goes up probably faster. OK, thank you. I-- I  
know Doug, so I can--

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

**DOUG KAGAN:** OK.

**LINEHAN:** Other proponents. Are there any other proponents? I'm sorry,  
I thought I saw you get up. Are there any opponents?

**JACK CHELOHA:** Good afternoon, Senator Linehan, and the members of the  
Revenue Committee. My name is Jack Cheloha, that's spelled J-a-c-k  
C-h-e-l-o-h-a. I'm the registered lobbyist for the City of Omaha. I'm  
here to testify in opposition to LB26, this afternoon. As you heard  
from Senator Wayne and the proponents, the issue is obviously one that  
we're sympathetic to. Yet at the same time, we've looked at our system  
of sales tax in Nebraska and-- and-- and sometimes it defies logic in  
terms of, you know, who gets an exemption and who doesn't. Somehow  
there's probably a rhyme or reason to it. We oppose the bill today  
because we estimate roughly the city itself would lose between \$1.6  
million and \$2 million a year in sales tax that we put into our  
General Fund. And we use that to balance our budget to pay for police  
and fire, pay for public works, potholes, things like that. And so  
that would be a significant hit to us. Likewise, as was pointed out,  
if you look at the fiscal note, the state of Nebraska on its 5.5  
percent would be losing \$8 million annually starting in 2022. So for  
those reasons, we oppose it. Also from a bill that this committee  
heard last week, LB178 by Senator Lindstrom, we're in the mindset and  
that's more of a priority now to help our ratepayers on our sewer  
separation. We were supportive of LB178 because that is what set up a  
mechanism to help get the sales tax back to the utilities and the  
cities, etcetera, providing the utilities that need to do these  
updates and we could actually put that money into the system and we  
could lower there-- let me rephrase that. We could keep their user  
rates in check and not maybe have them grow as fast as they have been.  
It was pointed out that Omaha has a combined sewer overflow project  
that's roughly costing \$2 billion, and so that explains why customers

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like the one proponent on this bill gets his bill from MUD. They do the billing for all the City of Omaha on the sewer use fee and that fee has grown in the past few years as we've paid for this project. So for those reasons, we just don't think it's the right time to be-- put in another exemption out there relative to residential water. And I'll try to answer any questions, but we're opposed to the bill. Thank you.

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

**PAHLS:** Okay, so you're opposed to helping the citizens of Omaha on the water issue?

**JACK CHELOHA:** Well, that's-- that's a pretty loaded phrase got under. I mean, we're not opposed to it. We would prefer to help them in another manner by helping them with their combined sewer bill. And so we would use the sales tax there to help pay for the other projects.

**PAHLS:** So, this exemption is, though, is, you're-- if you're on it, or-- I just want to make sure.

**JACK CHELOHA:** No, at this point in time we stand opposed. I mean, it would take a-- it would put a hit to the Omaha city budget of 1.6 to \$2 million annually. And-- and that's a big number that we'd either have to make up with the property tax increase or some other manner and so because of that, we have to oppose the bill today.

**PAHLS:** OK. So that I'm looking at farm trailers, that's \$6 million-plus. I'm assuming you're opposed to it too.

**JACK CHELOHA:** I don't-- I don't-- I don't think we have a lot of agricultural implement dealers in the city limits, so-- so we-- we looked at it, but we didn't take a position on that bill. We won't have a position on it.

**PAHLS:** OK, but we do have a few trailers sold in Omaha.

**JACK CHELOHA:** Sure, sure.

**PAHLS:** OK, what about ethanol? We use gas, the basically a million dollars that they're asking for. I'm trying to figure out--

**JACK CHELOHA:** Sure.

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**PAHLS:** --how do we prioritize because you're saying we can't do this because it's going to hurt the City of Omaha. We can't do this because we're going to hurt agriculture or help them.

**JACK CHELOHA:** Right.

**PAHLS:** I don't know what there is for us to do other than pick and choose and it just depends on who's in control. You need the votes.

**JACK CHELOHA:** Right. And I mean, apparently that's the way, you know, the system has worked since we've converted to a sales tax system in the late '60s. The key is to have a broad base. And you, as anybody, would understand that very well, Senator. And any time you add exemptions that keeps whittling away at the base and then the-- the income that the governments rely on decreases. And so in terms of prioritizing, you know, I'm here to say that we prefer and we prioritize LB178, which you just this-- committee just heard last Friday, because that will help us on that-- that federal mandate that we're having right now. When and if, you know, we get that paid off, maybe then would be the proper time to look at potable water or residential water, as it's referred to in LB26.

**PAHLS:** So as I continue to drink my water out of my faucet, I just automatically should accept the fact that the city has chosen not to support that.

**JACK CHELOHA:** Yeah, not at this time, Senator. We just can't do it.

**PAHLS:** OK, so that's all I need to know. Thank you.

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

**BRIESE:** Thank you, Chairman Linehan. Thank you for your testimony here today. What is the city's total General Fund budget?

**JACK CHELOHA:** Let me-- charge my memory here a little bit. I think we're in the \$400 million range. I can text or email you an exact number, but I think our General Fund budget is around that number.

**BRIESE:** I'm just trying to get some perspective as to wha 1.6 to \$2 million would be. And--

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**JACK CHELOHA:** Sure.

**BRIESE:** --half a percent or less.

**JACK CHELOHA:** Right.

**BRIESE:** OK, thank you.

**JACK CHELOHA:** OK, I will get that to you, Senator. I'll send it to  
you.

**LINEHAN:** Thank you, Senator Briese. Are there other questions? You  
know, there was a hearing this morning on pop and candy?

**JACK CHELOHA:** Yes, I do. I was in the room. I heard it, yep.

**LINEHAN:** Did you testify in favor of Omaha?

**JACK CHELOHA:** We did not.

**LINEHAN:** You do sell pop and candy in Omaha.

**JACK CHELOHA:** Correct.

**LINEHAN:** So you think it's OK that we tax pop and candy-- we don't tax  
pop and candy, but we tax tap water?

**JACK CHELOHA:** Boy, that one's a hard one to explain, but I mean, these  
are judgments that this committee has made before and-- and I just  
have to kick it back to you.

**LINEHAN:** But I'm asking you for Omaha's point-- Omaha, the city of  
Omaha's judgment.

**JACK CHELOHA:** I think it-- I can't say for certain the-- but-- but if  
pop and candy were to fall into the taxable line, I don't expect a lot  
of people in the City of Omaha objecting to that, but it wasn't-- it  
wasn't our bill. And so we didn't feel strong enough to testify on the  
bill that that would be a-- you know, a source of revenue for the  
state or us.

**LINEHAN:** On the federal mandate, the federal mandate that the federal  
government mandated to fix sewer system--

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**JACK CHELOHA:** Correct.

**LINEHAN:** --they didn't mandate how you pay for it, did they?

**JACK CHELOHA:** No, they didn't.

**LINEHAN:** So the 57 or 43 or whatever month charge is not a mandate by the federal government, that's how the city decides to take it.

**JACK CHELOHA:** Right. We decided to pay for it based on user fees because we thought that was the fairest amount. And there was a little bit of discussion between Senator Pahls and the first proponent in terms of the difference on their monthly bill. I think the way they are set up, it has to do with the amount of water being utilized and then going out through the system is how it's measured and the bills are set accordingly. So we decided that was the fairest method.

**LINEHAN:** OK, um. OK. Any other questions from the committee?

**JACK CHELOHA:** Plus-- plus-- plus, people that don't pay property tax still use water and sewers, and so that's another way that they can be paying their fair share, if you will. We thought it was the most equitable way to do it.

**LINEHAN:** It seems a little strange. We have a \$100,000 house and they pay just as much as a million dollar house. That is really upside-down for property taxes.

**JACK CHELOHA:** But you're talking about the sewer use fees particularly?

**LINEHAN:** Yes.

**JACK CHELOHA:** I think probably at a certain point we drop off and just have a maximum then based on use. But I mean, as you could see, there was a difference between these two houses.

**LINEHAN:** What is the max? The max is like 57 bucks, then?

**JACK CHELOHA:** It may-- it may be a little higher than that right now. I want to say it's near-- near 65, but I'd have to pull out our documents from LB178 to tell you.



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**LINEHAN:** And then it goes up every year for how many years?

**JACK CHELOHA:** We usually set our rates on the theories fee within like a 5-year period of time. And so with that, we do have a built in rate increases to pay for that as we're letting more bonds to do the project.

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

**JACK CHELOHA:** Thank you.

**LASH CHAFFIN:** Good afternoon. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n, and I'm a staff member at the League of Nebraska Municipalities, and I would like to offer the League's opposition to LB26, based primarily on the impact on the 200-plus cities that have a local option sales tax at this point. The-- this would have a financial impact on those cities and that money would come from some other source, repair revenue, property tax. It would-- at this point, it would have to come from some other source. Has Senator Wayne identified a legitimate policy issue? Probably. Probably, yes, he has. And, you know, if we were to go back to 1968 and-- and redo the entire sales tax system, this probably would have been something that should-- should have been considered differently. Unfortunately, this is embedded in the system and it does create a fiscal impact at this point. I think, you know, and it's-- and as Senator Wayne indicated, it parlays into a whole series of other strange sales tax policy anomalies that are sort of built in the water system itself. And-- and someday, if we ever can redo the system from scratch, I think these are-- these are legitimate policy issues that need to be discussed. At this point, I think the League members would prefer-- they're sensitive to the issue and they deal with water customers every day as-- as-- as-- just like you do. And they're sensitive to the issue. And I think what they would prefer is an approach at this point, similar to LB178, introduced by Senator Lindstrom. And-- but-- but again, this is-- this is an interesting policy decision and-- and regrettably, I think at this point, we have to oppose this bill.

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

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**PAHLS:** Thank you, Chair. And as I look over these three fiscal notes and you would oppose-- probably oppose all these because there's an exemption.

**LASH CHAFFIN:** Well, that's an interesting-- when you asked Mr. Cheloha that question, that's an interesting question. And-- and historically, the farm implement, there's not a lot of those in the city limits. And over the last 20 years, the League has kind of stayed out of those. And to be honest, I'm a little surprised that the-- that brewer's yeast is taxed at the-- at the ethanol-- at the ethanol plants. I mean, you know, I would think that would be-- I don't know, I'm just a little surprised on that one in-- in general. And also those-- those facilities often don't fall within the city limits as well.

**PAHLS:** Yes. I'm not just concerned about city limits.

**LASH CHAFFIN:** Sure.

**PAHLS:** I'm just saying there's some discrepancy here. If I-- yeast, which I understand. I'm surprised it's waited this long for the good Senator to bring this forth, because I can remember the last time I was down here, we were talking about the dust in the elevator, the certain solution they put on it so it doesn't explode. I get it. But after all those years, all of a sudden, somebody is picking out. You're talking, they do not-- they are not in the city of Omaha, I get that.

**LASH CHAFFIN:** Sure.

**PAHLS:** But the water issue is a major issue in the City of Omaha.

**LASH CHAFFIN:** It is, it is. This-- these competing policy conflicts, I mean, it's-- it's-- it's tough. And I-- they're-- they're hard to understand how they all work together.

**PAHLS:** You-- you have any idea how many billions of dollars we have in exemptions right now? Do you have any-- I'm just--

**LASH CHAFFIN:** I don't, Senator.

**PAHLS:** You think it would be several?

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**LASH CHAFFIN:** I would have to go back to the study from when you were a Senator, look at some of that. But I don't remember the number, but it's high. It's probably in the billions would be my guess.

**PAHLS:** In the billions. But that's reason why it's so difficult up here.

**LASH CHAFFIN:** It is.

**PAHLS:** We're picking and choosing. And I just want the people out there watching us, understand. This is just today.

**LASH CHAFFIN:** Yes.

**PAHLS:** You know, it's-- OK.

**LASH CHAFFIN:** It's a-- it's a thick, complex book of regulations.

**PAHLS:** Thank you.

**LINEHAN:** Thank you, Senator Pahls. Other questions?

**LASH CHAFFIN:** Thank you.

**LINEHAN:** You weren't here this morning either on pop and candy, were you? The League, were they here?

**LASH CHAFFIN:** I'm not sure. I was in a meeting all morning, but.

**LINEHAN:** Do you find it odd that we tax tap water and not pop and candy?

**LASH CHAFFIN:** I do find it odd, but, yes.

**LINEHAN:** It's-- I think it's odd that the City of Omaha or the League wasn't here this morning to be supportive of that tax versus taxing people's water.

**LASH CHAFFIN:** Sure. I don't know, I don't have an answer for that, Senator, but.

**LINEHAN:** All right. Anybody else? Thank you much for being here.

**LASH CHAFFIN:** Thank you.

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**LINEHAN:** Next opponent. OK. Is there anybody wanting to testify in the neutral position? OK, we did have no written testimony was submitted and we had five proponents letters for the record, five proponents, two opponents, and none in neutral. Senator Wayne, would you like to close?

**WAYNE:** Thank you. I am often still shocked and amazed when I come to hearings. So I looked at my water bill and I'm actually paying \$91 for my sewer separation fee.

**PAHLS:** Seriously.

**WAYNE:** Ninety one dollars and 41 cents. And my tax is \$17.43, and I have two little ones at home and my daughter likes to let the shower run before she hops in, so that could be part of it. I'm not on this committee, but I watched this committee and-- and for those who have been on this committee for years, there are times that I used to sit in the back room until 9 or 10 o'clock at night while property tax or sales tax or some kind of exemption was going on, because I'm always fascinated who shows up and who doesn't on what bills. This is for the people, like literally for the people. You have the ability to go buy water at a store. In 1968, bottle water just wasn't that popular. You can go buy it from the store and not get taxed, but a mother filling up her water for formula is taxed. That's literally what we're doing. That makes no sense. And if it only cost us a couple million, 8 million to 10 million to not-- that's how much we're paying in taxes, that's-- that's what I don't understand the argument behind us for the City of Omaha, they're going to lose \$2 million in tax revenue. That's \$2 million we're taxing residential water. This isn't industry water, this is residential water. I don't even know what to say. That's one of the first times I think in four year I'm speechless. That's beyond me. I'll answer any questions.

**LINEHAN:** Thank you. Are there any questions for Senator Wayne? Seems we're speechless too. Oh, I'm sorry, Senator. Pahls.

**PAHLS:** Chair, I'll ask you-- did you ask-- did I miss, did you ask Senator Wayne about pop and-- was I asleep? Did you ask him the question?

**LINEHAN:** I probably didn't, because I think I know his answer, but go ahead.

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**PAHLS:** What about-- this morning we had talked about pop and candy.  
What's your--

**WAYNE:** I think it should be taxed. When you look at the health  
benefits and somebody who is from diabetes, I think we need to offset  
that general tax with some of the social conditions that occur from  
sugar and pop and candy. I'm generally against all taxes, but if we're  
going to tax water, I can't say we shouldn't tax sugar. That's just  
kind of how I feel about it.

**PAHLS:** Thank you.

**LINEHAN:** Thank you, Senator Pahls. I did have one. Why did you-- just  
kind of knowing how it works around here, how did you figure out how  
to spend the money? I mean, why did you pick-- or did I not-- am I  
misunderstanding?

**WAYNE:** No, I just-- literally, I talked to Senator Chambers last year  
on the bill and he just-- so I don't know. I guess I can defer to him.  
And there was-- I mean, the conversation we had on the floor with  
Senator Lindström about the whole problem of how to-- of double  
taxation of water. But no, I didn't-- I didn't come up with the secret  
formula.

**LINEHAN:** So your concern is taxing the tax, like--

**WAYNE:** Yes.

**LINEHAN:** --do away with tax. Not so much focused on how-- what we do  
with the money.

**WAYNE:** No, I was just trying to gain some support, but that didn't  
work.

**LINEHAN:** Or where the money comes from, OK, all right. Anybody else?  
Thank you very much--

**WAYNE:** Thank you.

**LINEHAN:** --Senator Wayne. So with that, we close the hearing on LB26  
and we'll open the hearing on LB595. Senator Albrecht.

**ALBRECHT:** May I?

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**LINEHAN:** Go ahead, Senator Albrecht.

**ALBRECHT:** Good afternoon, Chairwoman Linehan, and members of the Revenue Committee. For the record, my name is Joni Albrecht, J-o-n-i, last name Albrecht, Al-b-r-e-c-h-t, and I represent Legislative District 17 in northeast Nebraska, which includes Wayne, Thurston and Dakota Counties. I'm pleased to introduce LB595. Renewable Fuels Nebraska brought this bill to my attention. They are a statewide trade association that represents Nebraska's ethanol industry. Ethanol production is a vital to our agricultural economy, as the 25 plants throughout the state of Nebraska processed nearly 500 million bushels of corn every year. Let me put this in perspective for you. Five hundred million bushels is equivalent to one out of every four rows of corn grown in the corn fields in Nebraska. Combined, these plants-- combined, these plants produce more than 2.2 billion gallons of ethanol every year, the second most per state in the country behind Iowa. This bill simply exempts sales tax on inputs used in the production or manufacturing of ethanol. Enzymes and yeast are taxed inputs, yet they are vital ingredients to the manufacture of ethal-- alcohol. As you know, Nebraska typically exempts manufacturing inputs from sales taxes because the result is a simple tax pyramiding for the consumer. It violates basic tax policy principles of economic growth, equity and transparency. Taxing inputs results in an effective sales tax rate that is higher than the statutory rate. The imposition of sales tax on inputs has kept our ethanol producers and manufacturers at a-- at a distinct disadvantage to other ethanol producing states, just like sales tax on inputs are a detriment to other manufacturers. Thank you for listening and I respectfully ask for you to advance LB595 out of committee and on to the floor of the Legislature and I'd be pleased to answer any questions. And I have many experts behind me that can certainly answer any questions I might not be able to. So, thank you.

**LINEHAN:** Thank you, Senator Albrecht. Are there questions from the committee? Seeing none. First proponent.

**TROY BREDEKAMP:** Madam Chair, members of the committee, my name is Troy Bredenkamp, spelled T-r-o-y B-r-e-d-e-n-k-a-m-p. I'm the senior vice president of government affairs with the Renewable Fuels Association, a national trade organization. I'm now based in Washington, D.C. But when the session began and LB595 was introduced, I was the executive director of Renewable Fuels Nebraska. That is the

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trade association for Nebraska's ethanol industry. It's on behalf of RFN and their members that I come before you today to express their strong support for LB595. LB595 is a very simple bill. It provides sales and use tax exemptions for enzymes, yeast and related products used in the process of manufacturing ethyl alcohol. As you know, inputs are integral and essential to the manufacturing process, are exempt from state sales and use taxes in almost every instance under Nebraska statute. Enzymes and yeast-related products used in manufacturing of ethyl alcohol or ethanol, however, are not recognized as qualifying for such an exemption by the State of Nebraska Department of Revenue. While enzymes, yeast and related products are certainly integral, it's frankly impossible to manufacture ethanol without them. The Department of Revenue does not recognize the exemption because it is-- our understanding that it is their position that the enzymes in yeast are not identifiable in the final manufactured product, either in the ethanol or in the distillers, and therefore, according to their interpretation, not eligible for the sales and use tax exemption afforded to nearly every other input. LB595 remedies this unfortunate interpretation. The reason the issue of the sales tax on enzymes and yeast has been recently raised is because as an industry, many plants were receiving some business incentive tax credit provisions under the old LB775 and more recently, the Advantage Act, and those business incentive packages were masking the fact that the Department of Revenue was requiring sales tax on enzymes and yeast. Now that those tax provision credits have run out and are no longer available, Nebraska's plants are obligated to pay the sales on the most integral of inputs into the ethanol manufacturing process. As you may know, Senator Albrecht sponsored a study resolution, LB373, conducted by the Natural Resources Committee this past fall, to examine Nebraska's ethanol industry and policies of the state of Nebraska that are helping and those that are hindering Nebraska's \$5 billion ethanol industry. One of the findings in the study was that Nebraska is the only major ethanol producing state that requires remittance of sales and use tax on ethanol manufacturing inputs such as enzymes and yeast. So, it is important to note that Senator Albrecht did a great job of covering the importance of the industry. I would just note that it has been a very challenging few years in the ethanol industry with extremely thin margins and prolonged demand disruptions due to the ongoing COVID-19 pandemic. Every penny counts right now to Nebraska's ethanol producers and several hundred thousands of dollars that are-- that our producers

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remit in sales tax on manufacturing inputs on enzymes and yeast are making Nebraska's ethanol industry less competitive when compared to other ethanol producing states. So it's for these reasons and more, Renewable Fuels Nebraska and its members' plants would urge you, as members of the Revenue Committee, to support LB595 and report it to the full body at your earliest convenience. With that, I would be happy to answer any questions.

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

**FLOOD:** Thank you, Chair Linehan. Thank you, Mr. Bredenkamp, for being here today. This has nothing to do with ethanol and everything to do with [INAUDIBLE] settled our tax problems in Nebraska. Of the-- of the three taxes, property taxes, income taxes and sales taxes, which one is the most burdensome to your industry?

**TROY BREDEKAMP:** I'm sorry, go-- property--

**FLOOD:** Property, income or sales?

**TROY BREDEKAMP:** Woo! Boy, that would be-- that's a really great question. We have someone from the actual plant themselves coming behind me, so I'm going to leave him with that answer. All three are going to be very important to us. As I mentioned, margins are as tight as they've ever been so we're watching all of those things. You know, but when you're looking at a-- in some cases a plant that has a property value in the hundreds of millions of dollars, that's obviously going to be a sizable property tax burden there as well. So, this is just one of those things where we have identified, you know, what's right is right, and from a manufacturing input, we would really love to see the state of Nebraska resolve this particular issue.

**FLOOD:** And I guess I asked because my colleague, Senator Briese and several on this committee, we've talked about how many-- how many billions of dollars we have in sales tax exemptions.

**TROY BREDEKAMP:** Yeah.

**FLOOD:** And from a policy standpoint, are we going the wrong direction by granting more exceptions if the idea is to eliminate them in favor of aiding our property tax and income tax problems? And so I guess it has nothing to do with ethanol. I-- I understand and can appreciate



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your argument, but as a member of the committee, I think that's something we have to-- we have to come to terms with. Do we want to hand out more exemptions when we're actively thinking about expanding the sales tax base?

**TROY BREDEKAMP:** Yep. No, it's a-- it's a great point. I don't envy you in your positions to have to try and figure this three-legged stool out. It's-- it's-- it's been a challenge for years and it's going to continue to be a challenge. I guess our only point, Senator Flood, would be that from a manufacturing input, we do historically from a-- from a state and our policy, exempt these types of inputs into the manufacturing process, so we would really like to see this addressed at this time.

**FLOOD:** Thank you.

**TROY BREDEKAMP:** Yep.

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

**PAHLS:** Thank you, Chair. I'll let you reiterate what you said, that all of a sudden this is important. It was hidden in the past because of-- because yeast has been around forever.

**TROY BREDEKAMP:** Sure, you bet.

**PAHLS:** OK, and you're just wanting it now. Explain to me, all these years you've been--

**TROY BREDEKAMP:** Well, I may go a step further, but, you know, if you ever want to see what-- what good state policy does in terms of business incentives, you probably need to look no further than the ethanol sector in the state of Nebraska. We wouldn't be where we're at today without the business incentives set forth by-- by this body in products like LB775 and the Advantage Act.

**PAHLS:** I understand.

**TROY BREDEKAMP:** Those were very important to us.

**PAHLS:** I-- nobody is questioning.

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**TROY BREDEKAMP:** And, no, I'm trying to explain. So-- so as our members and as plants came into existence under LB775 and under the Advantage Act, they were getting tax credits. That was masking the fact that this sales tax was-- was due. So at the end of the day, their tax credits were wiping out the need to be paying this-- this sales tax. Those are now expiring. Those are now being retired. And now that sales tax is starting to bubble up and come to the forefront, that's why it's becoming an issue.

**PAHLS:** OK, so in the past, we actually were paying for it through tax credits, is what you're saying. They go away, so now they're standing out there naked to the world.

**TROY BREDEKAMP:** So to speak, yes. Yep.

**PAHLS:** OK, that's all-- I'm just trying to figure out why, because it always surprises me in some of these cases, you know, these issues come up.

**TROY BREDEKAMP:** Yep.

**PAHLS:** And you've been using those products forever.

**TROY BREDEKAMP:** Yeah, now-- now I will tell you, we-- we do have members that at one point, and I would go back into the 1990s that would have received an audit from the Department of Revenue, and that audit said sales tax on enzymes and yeast are not required. And then they get audited 10 years later in the early 2000s and suddenly the Department of Revenue says those are required now. And we aren't understanding what policy changed, what laws changed, but that's how this thing progressed. And about that same time or the late 2000s, that's when LB775 and some of these business incentive programs were building out the industry. That's why it's only now starting to really hit home.

**PAHLS:** As I said, I was just wondering why all of a sudden it popped up. Thank you.

**TROY BREDEKAMP:** Yep.

**LINEHAN:** Thank you, Senator Pahls. Are there other questions from the committee? Thanks for mentioning that-- those audits. Can you get me those two-- get the committee, not me-- the whole committee, their--

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what they said in '90 and then what they said in 2000. Did you say the Revenue Department had a different interpretation?

**TROY BREDEKAMP:** Yeah. From what we understand, we have a member, and I would be happy to put you in contact with them, who was one of the early ethanol producers in the state that are-- in the early 1990s, received an audit from the Department of Revenue as those are pretty typical. And at that time, sales tax on enzymes and yeast were not required. And then at some point they got an audit about 10 years later from the Department of Revenue and they got a notice that sales tax on enzymes and yeast were going to be required. And so we're not sure if there was a statutory change. I'm not aware of it. That was certainly before my time in the industry, but something did change over at the Department of Revenue, either from a regulatory perspective or statutory, that they determined that sales tax on enzymes and yeast would be required because at the end-- in the end products, there isn't-- it's not there in your face. If I'm a furniture manufacturer, the wood in this desk is easily seen in the final product, so thereby it meets their-- their standard. But from an enzymes and yeast perspective, they're still in there, but they've manifest as a protein or something else in the-- in the feed, but because it's not enzymes or yeast, they're saying it's not eligible. That's what we're trying to resolve with LB595.

**LINEHAN:** Got it. Yes, Senator Briese.

**BRIESE:** Chairman Linehan, and thanks for your testimony here today. Any ideas of the total value of all ethanol produced annually in the state?

**TROY BREDEKAMP:** The value of ethanol produced?

**BRIESE:** Yes.

**TROY BREDEKAMP:** If I'm-- if I'm looking at just our-- you know, we have 2.2 billion gallons, we have capacity to do about 2.6 billion gallons. You know, depending on the price of-- of ethanol at the time and it's-- it's not a great price right now, but we have had study after study and we, from an economic input to the state of Nebraska, range between three and a half to \$5 billion per year annually.

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**BRIESE:** And what is the value of that ethanol produced alone, what's  
it sell for?

**TROY BREDEKAMP:** Well, if I was to sell it today at about a \$1.60, you  
can do the math, you know, a couple billion there.

**BRIESE:** Just trying to put it in perspective--

**TROY BREDEKAMP:** You bet.

**BRIESE:** --of 6 to 800,000 versus the--

**TROY BREDEKAMP:** Yeah.

**BRIESE:** OK, thank you.

**TROY BREDEKAMP:** Yeah.

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

**PAHLS:** Thank you, Chair. What is the product you start with, corn?

**TROY BREDEKAMP:** Corn, you bet.

**PAHLS:** OK, and you get the majority of the corn from Nebraska?

**TROY BREDEKAMP:** Yep. Senator Albrecht said one out of four. We  
actually are a little higher than that. It's about 40 percent of  
Nebraska's corn developed begins its processing out at Nebraska  
ethanol plant. So about one out of-- about four out of 10 rows go to  
an ethanol plant to start that processing. We grind it, we add water,  
we add some steam, we add some enzymes and some yeast. And if you've  
ever watched the show Moonshiners, it's just Moonshiners on a much  
larger scale.

**PAHLS:** OK, that actually-- it's ag basically, it's a circle.

**TROY BREDEKAMP:** Right. Well, and really all we're doing is extracting  
the starch from that corn kernel. So we're taking that starch and  
we're turning it into alcohol, 200 proof alcohol. And then there's  
going to be by-products that are not turned into alcohol. We call  
those distillers grains, and that's going to be that protein value.  
That goes back to the feedlot, that goes to the livestock to be fed.  
And then many of our folks have even realized that we can extract some

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of the corn oil in that kernel that doesn't need to be put out into  
the feed portion of our by-products that we're extracting the corn  
oil. And now a lot of that corn is going into the biodiesel  
production. So it's-- there's not a waste product to be found for  
sure.

**PAHLS:** That's impressive. So may I call you a Moonshiner?

**TROY BREDEKAMP:** [LAUGH] Not me. I just represent the Moonshiners.  
Yeah. Yep.

**LINEHAN:** Thank you, Senator Pahls. Any other questions? Thank you very  
much for being here.

**TROY BREDEKAMP:** Thank you, ma'am.

**LINEHAN:** Next proponent.

**TIM SCHEER:** Good afternoon, Senator Linehan, and members of the  
Revenue Committee. My name is Tim Scheer, T-i-m S-c-h-e-e-r. My wife  
and I-- my wife and I farm near St. Paul. I'm a member of the Nebraska  
Farm Bureau and I'm a past member of the Nebraska Corn Board. Today,  
I'm here testifying in support of LB595 on behalf of the Ag Leaders  
Working Group. The Ag Leaders Working Group consists of the Nebraska  
State Dairy Association, Nebraska Farm Bureau, Nebraska Corn Growers  
Association, Nebraska Pork Producers Association, Nebraska Cattlemen,  
Nebraska Soybean Association and the Nebraska Wheat Growers  
Association. We thank Senator Albrecht for introducing this  
legislation. Nebraska currently ranks second in ethanol production  
producing nearly 2.2 billion gallons of ethanol each year and  
utilizing nearly 500 million bushels of grain in the process. This has  
a huge impact for me and many farmers across the state by increasing  
demand locally for our products. In addition, the ethanol industry  
provides jobs for some 1,000 Nebraskans. I think we can all agree that  
ethanol production is an important part to the entire state of  
Nebraska. LB595 would remove a competitive disadvantage in Nebraska  
ethanol producers encounter. Nebraska is currently collecting a sales  
tax on enzymes in use that are used in the process of manufacturing  
ethanol. Simply put, these are business inputs, and almost all tax  
experts believe taxing inputs is bad tax policy. According to the  
fiscal note, it is estimated that this will be a 1.5 million cost to  
the ethanol producers over the next two years. Who pays this tax? The

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short answer is, we all do as Nebraskans, while in other states they don't. It is added into the price of ethanol we pay at the pump and it reduces the price we receive for our grain. It may even mean a new ethanol plant would choose to bypass Nebraska and build in another state. That would be a huge loss in capital investment, economic development and job creation in our state. The bottom line is we need to keep the ethanol industry competitive to ensure that they will continue to see Nebraska as a place that is open for business. Thank you for listening to our comments. We ask this committee to advance LB595, and I'm happy to answer any questions.

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

**TIM SCHEER:** Thank you.

**LINEHAN:** Next proponent. Good afternoon.

**ROGER BERRY:** Good afternoon, Chairwoman Linehan, and members of the Revenue Committee. My name is Roger Berry, R-o-g-e-r B-e-r-r-y, and I am the administrator of the Nebraska Ethanol Board. And before you today-- excuse me, I left my mask on.

**LINEHAN:** OK.

**ROGER BERRY:** I am before you today representing the Nebraska Ethanol Board, and I thank you all for this opportunity. Much of the testimony that you have either have heard or will hear today has been giving you a picture of how the Nebraska ethanol industry has been up-- has been in the past or is today. And that is all good information for this committee to know, as it is important to know where we have been and where we are now. But in the few moments that I have to spend with you today, I want to take a glimpse into the future a little bit. I've been working the ethanol industry now for five years. I am very, very bullish on ethanol as we peek into the future. Science is showing that ethanol's ability to contribute to cleaning up our environment is getting better and better. Just a few weeks ago, a study out of Harvard showed that corn ethanol is now able to contribute to nearly 50 percent reduction in greenhouse gases as compared to gasoline. Some studies are showing that ethanol has the capability of reaching the status of a carbon sink. As we look at clean fuel programs and minimum-- minimum octane standards, this type of carbon scoring for

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ethanol makes it very valuable. And the amazing part of it all is that we have this fuel and the infrastructure to deliver these greenhouse gas savings right now, today. That is why I am extremely bullish as I look into the future and the very not far future of ethanol and biofuels. I bring this all to your attention because we could very easily get in a position where we need to start expanding the production capability of the ethanol industry here in the state of Nebraska. According to Nebraska state statute 66-1331-2, one of the purposes of the Nebraska Ethanol Board is to work with the ethanol industry to retain Nebraska dollars in the Nebraska economy to achieve a multiplier effect, thereby generating additional jobs and tax income to the state rather than the export of those Nebraska dollars. Nebraska is currently the number two producer of ethanol in the United States with a capacity to produce 2.6 billion gallons of ethanol. Illinois is the third largest producer, closely lagging Nebraska by only 400 million gallons. The last thing I want to see is Nebraska losing ranking because we as a state did not do everything we could do to keep the industry strong. It is imperative that the taxation of inputs for the ethanol industry be exempted just as it is for other industries. This one act would keep Nebraska competitive so that when the day of expansion comes, we do not lose out to the other states around us. Wouldn't it be a travesty if we slip from our number two position? California is a leading destination for a large percentage of the ethanol produced in Nebraska. If our plants were given the opportunity to invest the money saved from the passage of LB595, put that money back into their plants to further reduce their carbon scores of the ethanol that they sell into that low carbon fuel standard in California, then we would see more money coming back and increase the value of that ethanol being sold into California. At the same time, we would see an increase in well-paying jobs in the ethanol sector. In my opinion, simply a win-win for the state of Nebraska. I think that last paragraph for Senator Flood, I think that might answer the question that you're wrestling with of-- this is actually an investment by dropping this, allowing the capability of ethanol to increase in value if those investments are made back into our plants. And Senator Pahls, I think it maybe helps you in your decision of why should I support this bill over the other bills that you have in here today. I hope that gives you a little bit of input as to-- into the fact that this is an investment. By-- by-- by dropping this-- this required tax and putting it even with the rest of the industry. And

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with that, I'll end my testimony, but I'd be happy to answer any  
questions.

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

**ROGER BERRY:** Thank you.

**LINEHAN:** Other proponents.

**JOHN HANSEN:** Chairman Linehan, members of the committee, good  
afternoon. For the record, my name is John Hansen, J-o-h-n, Hansen,  
H-a-n-s-e-n. I'm the president of Nebraska Farmers Union. You've heard  
a lot of statistics and a lot of data today, but there's a few maybe  
that would also be useful. So when we think about this value added,  
self-grown economic driver that we've helped create in the state of  
Nebraska, we sometimes forget to measure the fact when we look at the  
difference, when we go to the fuel pump and we fuel up, that the  
difference between that E10 product and the nonE10 product is 30 cents  
a gallon, and when you do the math, that comes up to about \$100  
million less cost for fuel users in the state of Nebraska. That's a  
pretty substantial benefit to consumers. And so there's no question  
about what it has done for agriculture, for rural communities. It is,  
in my opinion, having worked in the rural economic development arena  
for a long time, the most effective economic development strategy  
we've ever done for rural Nebraska, when you look at the total amount  
of capital investment of over \$5 billion, the annual revenue, all of  
those things to local governmental subdivisions, the high quality  
jobs. So the question, though, that I have and I'll take a slightly  
different tact maybe than others today, but as you look at a lot of  
the bills that this committee gets and I've helped generate a fair  
amount of them, why-- why are we working with folks and why are we  
working with Senators to put together bills is because we're trying to  
remedy the difference between theory and practice. We knew what the  
intent of the bill was when it was passed. We knew what the theory of  
the policy was and when it gets implemented, it didn't work out quite  
the way we thought it was supposed to work. So we have two bills I'm  
going to testify on today that both to me are fairly simple bills in a  
way is, and so I look at this bill and say, are we going to tax inputs  
on manufacturing or aren't we? Well, if you take away the ingredients  
that are in question that the-- that the Nebraska Revenue Department  
thinks are not inputs into manufacturing, I'll know they're right when



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they can produce ethanol without it. Right? And they can't. Without these things, you don't produce ethanol. So is this an input into manufacturing? Obviously, it is. And so it's an inconsistency. It's an error in our own tax principles. So if the revenue committee and the Legislature ultimately isn't the one who helps provide clarity and remedy when these things happen and they always happen and they always will happen, then who oversees the Department of Revenue? So in this case, in my view, this is one of these bills that we should not have to be here on. This bill, in my opinion, should not be necessary, but it is necessary. And we thank Senator Albrecht for bringing this bill, it is necessary. We do want to support ethanol and we want to follow our own principles. And the principle here is pretty clear. Is this or is this not an input into manufacturing and it obviously is. And so for that reason, we support the bill with enthusiasm. And with that, I'll be glad to answer any questions.

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

**JOHN HANSEN:** Thank you.

**LINEHAN:** Other proponents. Good afternoon.

**JON COSBY:** Good afternoon, Revenue Chair Linehan, and members of the Revenue Committee. I thank you for listening to my testimony today. Thanks to Senator Albrecht for bringing-- for proposing this bill. My name is Jon Cosby, J-o-n C-o-s-b-y. I am the chief financial officer at E Energy Adams located about 30 miles south of Lincoln. We produce approximately 100 million gallons of ethanol per year and grind in excess of 33 million bushels of corn per year. We're a major employer in our area. We support the tax base through both property tax and other taxes paid at the local and state levels. We are proud to contribute to both our local economy and the entire state's economy as well. As you can imagine, this last year has been very challenging for the ethanol industry. The impacts of COVID-19 pandemic, including stay-at-home orders and social distancing, have had a dramatic effect on transportation and fuel demand. Financial losses have been significant across the sector, and that continues to be a major concern for our company. I'm here today to ask that you support LB595, which is a sales tax exemption on enzymes used and other related products used in the ethanol manufacturing process. We feel very strongly that inputs such as enzymes and yeast should garner a sales

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tax exemption. Enzymes and yeast are manufacturing inputs integral to our plant process. They are necessary to produce ethanol. They contribute protein to our livestock feed and become an essential nutritional component of that feed product. Other Nebraska manufacturers use inputs in the very same category as our enzymes and yeast that are exempt from sales tax. So enzymes and yeast used in ethanol production should be exempt as well. We need this, as others have stated, we need this exemption to remain competitive. Neighboring states do not require their ethanol plants to pay sales tax on enzymes and yeast. It goes without saying that being cost competitive with other states is critical. With COVID already wreaking havoc on ethanol production in Nebraska, we must avoid one more reason for ethanol production to decrease in our good state. LB595 would put Nebraska's ethanol producers and a plant like ours on an even playing field with competition in other states. On behalf of my company, E Energy Adams, I would ask you to support LB595 and vote to report it out of this committee as soon as possible. This is an important tax. This is important point to focus on. There's a lot of discussion on taxes within the state of Nebraska right now, no doubt. Discussion on, you know, kind of the flavor of the day is property tax, no question about it. But this is just wrong when it comes to manufacturing inputs, they don't get taxed. They don't get taxed in neighboring states and we need to to stay competitive in that way. So we'd hope that you'd still be able to focus on this. Even if a sales tax is in the flavor of the day, we'd hope that you'd give attention to this and kind of correct this wrong that's been going on for a while. So thank you for your time. And I will be happy to answer any questions you may have.

**LINEHAN:** Thank you very much, Mr. Cosby. Are there questions? Senator Flood.

**FLOOD:** Thank you very much for your testimony. I'm-- I'm just going to ask you about the cost of these enzymes and the yeast. It seems like for an industry that does \$2.1 billion, that in \$614,000 fiscal note might be-- might be not correct. What does it cost? Like what do you spend or what would an ethanol plant spend on enzymes and yeast and what else is being exempted here?

**JON COSBY:** Enzymes, yeast and other related products, so like other chemicals as well.

**FLOOD:** Right.

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**JON COSBY:** So different plants may spend different amounts. A big plant, a big company like an ADM may be able to get a lower price than other ethanol producers that are smaller. And so the expense for us, you know, on the enzymes and yeast side could be around three cents a gallon or so. And so-- but just like Troy Bredenkamp mentioned earlier, there's some credits that we've been receiving on these, so the full effect of them may not be showing up.

**FLOOD:** When you say a credit, what would that-- oh, from your--

**JON COSBY:** Nebraska Advantage Act.

**FLOOD:** Oh, OK. So what we're looking at here, is the amount the state loses presuming that you apply all your credits and those credits will run out some day.

**JON COSBY:** They will.

**FLOOD:** So this-- this fiscal note may change.

**JON COSBY:** Yeah, I would have to defer-- Senator Flood, what I would say is, I would have to defer to the Department of Revenue. They're the ones who are going to be able to estimate this fiscal note better than I'll be able to estimate it.

**FLOOD:** But you will be happy to know that the Supreme Court was consulted on your bill and they did not note any fiscal impact.

**JON COSBY:** None at all?

**FLOOD:** None.

**JON COSBY:** Well, then it should go swimmingly, you know, this should go very well.

**FLOOD:** Which I would be interested to know how the Supreme Court was consulted on LB595. The other thing is, it shows here a loss to the State Highway Capital Improvement Fund and the Highway Allocation Fund, which to my knowledge, sales taxes don't directly go to those funds. Everything would go into the General Fund, so I--

**JON COSBY:** Yeah.

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**FLOOD:** --I may not--

**PAHLS:** It's on hold.

**LINEHAN:** Senator Fischer.

**FLOOD:** Oh, OK, so in the fiscal note-- in the fiscal note on page 2, the Department of Revenue estimates that according to their data, \$4.5 million in sales and use tax has been collected from ethyl alcohol manufacturing in '19. And the department is estimating that enzymes, yeast and related products account for approximately 20 percent of the total tax revenue from ethyl alcohol manufacturing. Would you agree with that estimate from the Department of Revenue?

**JON COSBY:** I would agree with that estimate.

**FLOOD:** And what would you base your agreement on the estimate on?

**JON COSBY:** On the fact that different ethanol plants may spend different amounts of money on enzymes and yeast. And I don't have full knowledge of exactly what every single company is spending.

**FLOOD:** Would you-- and the credits that are being applied here probably--

**JON COSBY:** Probably didn't show up in that fiscal note, would be my guess.

**FLOOD:** And those credits will expire some day.

**JON COSBY:** So ours for our company in particular, the-- our last credits were last year, 2020. So our credits aren't-- we don't have any further credits beyond that.

**FLOOD:** What county are you located in?

**JON COSBY:** Gage County.

**FLOOD:** So you're also subject to the half percent?

**JON COSBY:** We're up to 6 percent now.

**FLOOD:** With these county sales tax.

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**JON COSBY:** With the county sales tax, that's right.

**FLOOD:** You're one of only two counties for the county sales tax.

**JON COSBY:** We're privileged to be one of the only two.

**FLOOD:** Oh, the Supreme Court can sleep well at night knowing you're paying for it. All right. Thank you.

**JON COSBY:** Yeah. Well, thank you for your questions.

**LINEHAN:** Thank you, Senator Flood. Are there-- Senator Briese.

**BRIESE:** Thank you, Chairman Linehan. Thanks for your testimony here today. Your cost of roughly three cents per gallon attributable to enzymes and yeast, is that representative of the industry in your opinion?

**JON COSBY:** I don't know what other people are paying on this product, per se.

**BRIESE:** You would guess it would be?

**JON COSBY:** I would guess that that would be a decent cost, Senator.

**BRIESE:** Fair enough. Thank you.

**LINEHAN:** Thank you, Senator Briese. Other questions? Senator Pahls.

**PAHLS:** Thank you, Chair. I'm just curious and I should know this, how many plants are there in the state of Nebraska?

**JON COSBY:** We've got about 24, a little over 20 plants, about that-- about that many. I don't have them--

**PAHLS:** No, I'm not asking, you know, but--

**JON COSBY:** It's in that range, yeah.

**PAHLS:** That's where I see the fiscal note has to be off because you guys aren't going to get much out of this, every plant. Let's say, 25 plants split up what's-- what you're saying here, the plant won't-- it doesn't seem to be the biggest deal that I thought it was. I mean, I guess I just told her every penny counts, but I just thought it would

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be-- I think there's going to be a difference in the final analysis,  
the fiscal note, I do.

**JON COSBY:** OK.

**PAHLS:** Thank you.

**JON COSBY:** Yeah, you bet.

**LINEHAN:** Thank you, Senator Pahls. Any other questions from the  
committee? So did you lose electricity?

**JON COSBY:** We did.

**LINEHAN:** A rolling blackout.

**JON COSBY:** We did. Lost electricity for an hour. Our district did a  
great job trying to inform us as soon as they possibly could. They  
found that after the-- after the fact as well, but we got hit with  
that as well, yeah.

**LINEHAN:** Senator Dorn was worried about you and he asked me.

**JON COSBY:** Yeah, yeah. He's a good one, Myron's great.

**LINEHAN:** OK, thank you.

**JON COSBY:** Thank you.

**LINEHAN:** Next proponent. Is there anyone else? Proponent? Opponent? Do  
we have a opponent? Do we have anyone in the neutral position? OK. We  
had no written testimony submitted and we had nine letters for the  
record as proponents, no opponents, and no one in neutral. Senator  
Albrecht, would you like to close?

**ALBRECHT:** I'll waive.

**LINEHAN:** You'll waive? OK. All right. There we go. OK, so we will go  
to LB672. Senator Murman just didn't know Senator Albrecht was going  
to waive. Oh, that was quick. Good afternoon, Senator Murman.

**MURMAN:** Good afternoon, Chairman Linehan, and members of the Revenue  
Committee. For the record, my name is Dave Murman, and that's spelled  
D-a-v-e M-u-r-m-a-n. I represent District 38, which includes the

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counties of Clay, Nuckolls, Webster, Franklin, Kearney, Phelps and southwest Buffalo County. I come before you today to introduce LB672, which is intended to clarify the meaning of the term agricultural machinery and equipment for the purpose-- purposes of the exemption currently provided under Section 77-2704.36. You may recall that a portion of this bill is identical to LB1070 that I introduced last year, which was unanimously-- unanimously voted out of committee to General File. The term agricultural machinery and equipment is defined in Section 2 of LB672 to provide guidance and clarity to both the agriculture community and the Department of Revenue as to the application of the-- of this exemption. It will mean such equipment and machinery used directly in cultivating or harvesting a crop, raising or caring for animal life, protecting the health and welfare of animal life, including fans, curtains and climate control equipment within livestock buildings, or collecting or processing an agricultural product on a farm or ranch, regardless of the degree of attachment to any real property. The term also includes, but is not limited to, head trailers, specific essential equipment for moving only combine heads from one field to another, head hoppers a/k/a head trailers and header transports, a/k/a head trailers. With agriculture equipment coming-- becoming so large, 30 to 50 feet wide, it is safer to utilize this equipment to move the combine heads from one field to another rather than moving it on the combine itself and seed tender-- tender trailers used to transfer bulk seed to planters. All of these items have a specific purpose used directly in agriculture and are not used for other purposes. Thank you for your consideration of LB672. At this time, I would be open to questions, but I'd also would defer to individuals behind me that may be better qualified to answer these questions.

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

**PAHLS:** Thank you, Chair. The only question I have-- I know I had several, but-- this is pretty late in the game. This is not new stuff. Why is it being brought forth at this stage?

**MURMAN:** Well, for instance, the head haulers have been around for like 30 years, as you said, and they predominantly, maybe never, were taxed until there was an audit in 2012, I believe, in that time frame. And at that time, there was some question as to whether they should be

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taxed by the auditors, but according to the Revenue Committee's own  
rules, which I talked about, they shouldn't have been.

**PAHLS:** OK. So since 2012, is what you say, you were audited. Since  
2012 to the present day, they're being taxed.

**MURMAN:** I think it's inconsistent now, but the people behind me can  
probably better answer that.

**PAHLS:** Thank you.

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

**MURMAN:** Yes.

**LINEHAN:** OK. Have to scrub the table between you guys. Hi.

**AL JUHNKE:** Hi. Madam Chair, members of the Revenue Committee, my name  
is Al Juhnke, A-l J-u-h-n-k-e. I'm the executive director of Nebraska  
Pork Producers. I'm here representing that group as well as the other  
ag leader groups, which include Nebraska Farm Bureau, Nebraska Corn  
Growers Association, Nebraska Soybean Association, Nebraska Wheat  
Growers Association, Nebraska Dairy Association and Nebraska Cattle.  
So we're speaking in one voice here on this, all in support of LB672.  
So rather than read to you, I do have a handout but first, just to  
review the bill real quickly, again. Senator Murman did a good job of  
explaining it. With Senator Briese and others bringing sales tax bills  
and our debate again being renewed on what is manufacturing equipment  
and ag and farm machinery, we think it's important to codify into  
statutes what that is. And so this bill by Senator Murman does just  
that to bring some-- hopefully some relief and some sighs of relief  
from our farm community knowing that that's a definition that we're  
using. Some of the other specifics in here are in here because as  
Senator Pahls just said, all of a sudden, we are being taxed on things  
that we have never, ever been taxed on. So there's some brand new  
taxes being invoked by the Department of Revenue and we've tried  
internally to correct it over the last two or three years and been  
unsuccessful. So obviously, you end up with people like Senator Murman  
and frankly, Senator Dorn, and prior to them, Senator Baker carried  
similar legislation. If you look at your handout, I thought, you know,  
for about half of you are farm country and half of you aren't, just to



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get an idea of what we're talking about and to see what some other states are doing, because I know we look at tax conformity as an important piece that legislators work on. So I first put in Iowa, it's farmer guide to Iowa taxes. And again, like most states, they put out a list. And I'm specifically focused right now on confinement buildings for livestock. So when you see their list, you see specifically curtains and curtain systems, fans and fan systems are exempt. OK, you go on. The next one is Minnesota Department of Revenue. Again, there-- if you're down at the bottom of their first page, basic structures treated as real property, including roofs, walls, foundation, electrical wiring, etcetera. Then you go to exempt equipment and its ventilation systems that directly affect the health and productivity of livestock, like we thought we had in Nebraska. You go down further what's taxable is other ventilation equipment. So if you have a shop or you have a meeting room or you have a shower facility, maybe you put a furnace or a heater in there, those are real property and those are taxed. But for the health and welfare of the livestock is not. In fact, I'm unaware of any state other than South Dakota, and we know why in South Dakota, because they don't have income tax that taxes this equipment. OK. So again, we're trying not to be an outlier. Now, the pictures. This came from a soybean grower. This is the trailer right in their shop that we're talking about that hauls those combine heads down the road because otherwise you'd all be stopped for quite some time following those machines if they left them on. And then you see some buildings. These are modern confinement buildings. The first one is a dairy building and the other ones are examples of fans and curtains in swine buildings. So just so you know, we're talking about curtain systems and fan systems and ventilation systems. So that's where we're at on that. I guess I'd like to address the fiscal note too. Fiscal notes, as you know, have been a scourge of Legislatures all over the country and nationally forever. Right. We can debate and we do go back and forth with the department and with others. This fiscal note, frankly, is baffling because the fiscal note is predicated both on the trailers and on the ventilation equipment that somehow they're being taxed now. They're not. Nobody is-- I'll guarantee you, Senator Briese or Senator Flood, go out and talk to your farmers. I'll guarantee you that they didn't know they were supposed to have a tag on that trailer that they hauled the combine head on. So no one-- no one's paying anything right now, so how do you lose money? And it's the same way with us. Other than an audit or one of our equipment dealers down in the southern part of the state has

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ended up having to pay on some of this because of the insistence on the department, I'll guarantee you or I'll bet you a beer and a smile that no one else is paying these taxes. So to somehow figure out that there's a fiscal out-- and by the way, I'll be happy to do the farmer math on the fiscal note, if you really want to know, my time is almost up. But even the numbers are nonsensical if you actually dive into how they got them and by reading the fiscal note again, I'll end on this. When we were in high school and junior high and I was in a lot of math classes, we were supposed to show our work. Right. Maybe we should require the department to show their work on these so we could actually see line by line by line by line where they got their numbers, what the numbers were and how they did the calculations. I, for the life of me, cannot figure that out. So I'm happy to work with all of you and will going forward. We hope you can support Senator Murman in this bill and and get these corrections made.

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

**BOSTAR:** Thank you, Chair Linehan. Thank you, sir. You-- you indicated that with a little bit more time, you'd have a little bit more to say about relating to the inaccuracy of the fiscal note. I would be interested in hearing that.

**AL JUHNKE:** OK, well, let's just-- and again, I'm just going to use pork because that's where I'm from, but it'll kind of translate on the barn side of it. So when you look at their fiscal note of 5.4 million, so if you look at a brand new barn up in-- up in Norfolk, there's brand new swine facilities that go up. Those 2,500 head confinement facilities which are state of the art that's what you see built right now, the cost of the most expensive ventilation system, state of the art. I want the best there is with controls and the fans and the hangers and everything else will run \$70,000. OK? So we take-- so they want to tax that. That's what's part of this bill. So you take five and a half cents times \$70,000 in that barn and you come up with \$3,850 per barn. You divide that into \$5.4 million and you get 1,400 new barns-- per year that have to be built. Now we know our barns, we're not replacing them every year, number one, so how in the world are you coming up with it per year? I will tell you, there's 1,500 pork producers in the state. So if we're just looking at pork, that means a new barn on every farm place, every year, according to them. Now, there's poultry and dairy too, not a lot of dairy, but there is--

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we just had 500 poultry barns go up in the last three years. So maybe add 200 barns there. And of course, you can take these systems. They are fixtures, trade fixtures, really, because you can replace them, upgrade the motors, redo the systems, Senator Bostar, and so you'd include some of that, too, as we retrofit new barns. But again, 1,400 barns worth of equipment-- I wish. We'd be bigger than Iowa and Minnesota pretty soon in pork production if that was the case, but we're not even close to that. So again, their numbers, when you look at their-- their fiscal note, they did-- they used data from USDA 2019 farm business income. I don't know what that is and I know what the census of agriculture is, but they don't say what piece of that they used. And then they estimated the revenue, somehow an improvement and construction expense in Nebraska and got 5.4 million. Now, I will also tell you, I'll be honest and upfront with you all the time. Three years ago, Senator Baker had a similar bill. Fiscal note was over nine million then. So they're not even consistent with themselves, much less figuring this out. You know, you could call a dealer like I did and say, what's the cost of these ventilation systems and how many about do you sell a year, and you'd come in pretty close. But apparently nobody is making calls beyond the-- the Internet. Right. And so-- and you folks, as legislators know that. You have fiscal notes come through here every day that someone will say, wait a minute, time out. You said it on the earlier bill, Senator Pahls. You're right. And I don't know how you correct that as a Legislature. You really need to get an independent fiscal office to do that, but again, that's a future discussion.

**BOSTAR:** Thank you very much.

**AL JUHNKE:** Yep.

**BOSTAR:** I appreciate your perspective.

**AL JUHNKE:** Yeah, no problem.

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

**FLOOD:** Thank you for your testimony. I'm trying to understand on the ventilation systems, would the Department of Revenue's position be that that's a fix to the real estate as part of the building and

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therefore it's not ag equipment and machinery because it's part of the  
real estate.

**AL JUHNKE:** Right. That is the debate. So is it real property or is it,  
like I say, similar to a trade fixture that you'd have in a business  
downtown Norfolk. You know a trade fixture is permanently attached--

**FLOOD:** So that--

**AL JUHNKE:** --but it can be removed and taken somewhere else.

**FLOOD:** So that real estate building, that building is taxed as real  
property and not as personal property.

**AL JUHNKE:** Right.

**FLOOD:** So the question I would have, and this would be for the  
department, is that how do we treat all real property? Is everything  
affixed in part of the systems, is any of that entitled to a sales tax  
exemption if you were to look at it from the department's perspective?

**AL JUHNKE:** Right.

**FLOOD:** Can you think of any other real property that has a sales tax  
exemption?

**AL JUHNKE:** Any other real property? Well, like I say, trade fixtures  
all the time on a lot of real property items.

**FLOOD:** Give me an example of that.

**AL JUHNKE:** A dentist's office with a fixed-- fixture, chairs or  
specialized fans or equipment that are actually attached to the real  
estate that, if not used, could be unattached and moved. I would also  
say for us and again, this may be a future bill, because we're trying  
to work it out internally.

**FLOOD:** The difference there might be that this is a heating and  
cooling system--

**AL JUHNKE:** It is.

**FLOOD:** --versus a-- because I think dental chairs and such would be  
personal property, right?

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**AL JUHNKE:** Sure. Well, again, I can-- I'll find you-- I'll get you all  
kinds of trade fixture examples from--

**FLOOD:** I'm sure you will.

**AL JUHNKE:** --from your businesses in Norfolk. But-- but no, you're  
right. If you don't mind, I'll-- Senator Flood, I think that's the  
debate.

**FLOOD:** Yeah. OK.

**AL JUHNKE:** So the question is, and when you look back at the-- at  
the-- the definition, so this is for the health and welfare of the  
animals in the building. If I was using that building for anything  
else and trust me, I'm a farm real estate appraiser in a past life. I  
did farm real estate appraisals. There are all kinds of former  
livestock buildings that are not used for livestock that are used for  
chemical or fertilizer or workshops or storage or machine sheds. Any  
of these buildings could be retrofitted for that and they would not  
use those fan systems had there not-- is there not livestock within  
them. So that is for the health and well-being of the livestock.  
Again, I said if you're putting a furnace or a heater into a shop or--

**FLOOD:** I-- I understand where you're going and I appreciate it.

**AL JUHNKE:** Yeah.

**FLOOD:** Now, what about this-- these trailers?

**AL JUHNKE:** Yep.

**FLOOD:** That's-- the fiscal note on page 2 suggests there's 8,165  
trailers purchased per year to replace depreciated farm trailers.  
That's not 8,165 of the road equipment trailers.

**AL JUHNKE:** No. No.

**FLOOD:** Because there's a lot of trailers being sold in rural Nebraska,  
so--

**AL JUHNKE:** Yep.

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**FLOOD:** --are-- are you wanting to apply the sale of every trailer to a  
sales tax exemption or what is that?

**AL JUHNKE:** Again, the-- the reason, Madam Chair and--

**FLOOD:** Oh, 10 percent is what they said.

**AL JUHNKE:** Yeah, yeah.

**FLOOD:** No, no, no, I'm sorry.

**AL JUHNKE:** So, again, what they're doing is actually estimating,  
guessing how many of these trailers are sold every year. You could  
easily call the manufacturers and probably find out how many combines  
are sold a year, then you'd actually know how many trailers are sold.  
But you should also know by going out and looking in any of the barns  
and these trailers, there's no license plates on any of them. These  
aren't for wood hauling or hauling your boat or hauling anything else.  
These are one specific thing. You put your header on it--

**FLOOD:** You think there's that many trailers being sold on the road?

**AL JUHNKE:** No, I don't. And again--

**FLOOD:** I don't see any of--

**AL JUHNKE:** --the Farmers Union, they probably know better than me.  
Again, I'm-- I'm the the pig guy, but--

**FLOOD:** You don't have big rows--

**AL JUHNKE:** --in another-- in another life, I did a lot of farm work  
and and anyway, I--

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

**AL JUHNKE:** Yeah.

**LINEHAN:** Thank you, Senator Flood. Senator Briese. Oh, never mind. Any  
other questions from the committee? Thank you very much for being  
here.

**AL JUHNKE:** Yeah, Madam Chair, I appreciate it. And I know-- I know the  
Legislature is ag friendly. I absolutely know that, Madam Chair. Every

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one of you here is ag friendly. I'm hoping we can convince the  
administration to be a little more ag friendly moving forward. With  
your help, we can. So thank you very much. I do appreciate the time.

**LINEHAN:** So, next proponent.

**JOHN HANSEN:** Madam Chairman--

**LINEHAN:** Good afternoon.

**JOHN HANSEN:** --members of the committee, again, for the record, my  
name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president  
of Nebraska Farmers Union. We are here today in support of LB672. But  
from a bit of an historical perspective, based on what it is we  
thought we did when we were testifying on March 7, 2013 on Senator  
Dubas' LB96, I see some of the same familiar faces and that included  
the-- the Iowa-Nebraska Equipment Dealers Association, the Nebraska  
Cattlemen, Nebraska Farm Bureau and Nebraska Farmers Union. And so in  
terms of the-- the result of that bill, which was approved by the  
Legislature, signed into law by Governor Heineman, is that we thought  
we were fairly clear. We had a pretty good definition, understanding  
what was involved in agricultural equipment, etcetera. And so I was  
visiting with Senator Dubas earlier today in the hall and it's-- here  
we are seven years later, and we're still trying to get resolution to  
some of the things that we did seven years ago. So that's why bills  
like this become necessary and why every time there's one that's  
brought forward, we support it. But the-- to the equipment side of  
this, and our good friend, Al Juhnke, did a nice job of explaining the  
hog side of things. But the equipment that are in question here,  
they're just-- you know, I-- I've been before this committee multiple  
times where we've been trying to resolve disputes with the Department  
of Revenue over multi-- multi-use equipment that could be used for ag,  
could be used for construction, could be used-- you know, I suppose  
you could use your skid loader for recreation. But theoretically, this  
equipment that's in question is-- and I think that's why it was  
supported last year, a similar bill. There's just not much of a case  
to be made that a header trailer is some-- is used for some other  
reason than agriculture. It's just not. These are-- this is  
specialized equipment. If you have a seed tender, what else would you  
use a seed tender for? There's just no other real reason you would  
have a seed tender. I, you know, I-- so should we be here trying to  
get clarification relative to how the Department of Revenue proceeds

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on some of these issues? In my opinion, I wish we weren't, but unfortunately we are. So the question that I ask on this bill is, are these things in question, agricultural use items and should they be covered by the law that was already passed? And the answer is yes. And so then that-- here we are back at the Revenue Committee and the Legislature helping provide additional direction and guidance to the Department of Revenue. So, in fact, the intent of the law that was already passed is realized. And so, you know, this is a fairness issue. The last bill was a fairness issue. And so, yeah, we need to-- we need to be consistent. We need to be fair in how it is that we carry out our policies and our principles. And so this is-- should be a simple slam dunk bill, in my opinion that ought to be supported by the committee and ought to go to the floor again this year. And hopefully we don't run out of time. And thank you very much for your past support and with that, I'd end my testimony and answer any questions, if I could.

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

**JOHN HANSEN:** Thank you all very much. Good luck.

**LINEHAN:** Are there other proponents?

**TIM KEIGHER:** Good afternoon, Chairwoman Linehan, and members of the Revenue Committee. For the record, my name is Tim Keigher. That is T-i-m K-e-i-g-h-e-r, and I appear before you today in support of LB672 on behalf of the-- as a registered lobbyist for the Nebraska arm of the Iowa-Nebraska Equipment Dealers Association. I had several notes written down here. Most of those points have been covered. We're here to support our customers. They have alternatives of where to go and buy this equipment. I guess the best example I would add to the discussion is that I went with Mark Othmer, who is out at the Lancaster County Event Center for their farm show right now and otherwise would be here today, but Mark and I met with the Department of Revenue and with DMV over this issue a couple of times. And the one interesting thing was, is that they told us that if the header trailers, as an example, were pulled by a tractor, then they were considered to be farm equipment and exempt. But if they were pulled by a pickup truck, they needed to be licensed and thus they did not qualify for the exemption. So we feel that this is a great way to clarify this issue. You know, as Senator Murman said in his opening,



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this came up as a result of an audit that was done back in-- it's either 2012 or '14, somewhere in that time frame, where some dealers were audited and the department asked them for the sales tax on these items and in some cases, the equipment dealers-- well, most of the cases, the equipment dealers, they-- because they weren't going to go back to the customer after the fact. So that's all we had to add. I think that this would really help clarify this issue and encourage you to advance LB672 to the floor. With that, I'd be happy to try and answer any questions.

**LINEHAN:** Thank you. Are there questions from the committee? Oh, I'm sorry. Senator Albrecht.

**ALBRECHT:** Probably not so much a question as obviously those who you went to talk to are not in farming and don't understand that you really don't want to drive down the road with a planter, you know, combine, carrying any of those. And I can't imagine us getting them out to the field with anything but the pickup. So I can't imagine that-- I mean, it's obviously the auditor that doesn't have any farming background or we obviously need to clarify this in the bill or it's not going to change, but nobody likes to go through an audit in the first place, but more importantly, when they are going to bring things up that don't have any bearing on because it's not spelled out in a bill, it's kind of sad. So I can see where we need to make some changes, so.

**LINEHAN:** Thank you, Senator Albrecht. Other questions? So are the equipment dealers collecting the tax on these now?

**TIM KEIGHER:** Well, the farmer, I believe it's Form 6, they make a determination as to whether or not it's a taxable item to them or not.

**LINEHAN:** The farmer decides.

**TIM KEIGHER:** I believe it's Form 6 that they fill out, yes.

**LINEHAN:** And I should have probably asked Mr. Juhnke this, but just-- it's a question I had. So, the hog confinement buildings their-- their tax is commercial property, aren't they?

**TIM KEIGHER:** You know, I'm not--

**LINEHAN:** OK.

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**TIM KEIGHER:** I'm not familiar with how that operates.

**LINEHAN:** That's a question we could figure out. But, so it would be interesting if their tax is commercial property and their cost includes the fans, I would think that's part of those, but anyway, OK, we'll find out. All right. Other questions? Yes, Senator Flood.

**FLOOD:** Thank you, Chair Linehan. On page 2, line 8 through 14, I'm thinking, Mr. Keigher, that this language is kind of dangerous when it says, basically having the Legislature find that equipment and machinery means tangible personal property and then you list how it's directly used. And then in line 13, it says, regardless of the degree of attachment to any real property. When we start divorcing personal property from the attachment to real property, are we now starting to-- like taxing something different, what kind of impact-- that could have impacts on how we-- we value real property if all of a sudden-- I mean, I guess, do you have any concern about this overall overreaching, in my opinion, statement, regardless of the degree of attachment to any real property?

**TIM KEIGHER:** I guess I'm not authorized. I mean, we didn't discuss that before my testimony.

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

**TIM KEIGHER:** You know, I understand where you're coming from, and I guess I'll leave that up to--

**FLOOD:** Well, why I raise the question, it's on the record. We can sort through it, but thank you.

**TIM KEIGHER:** Um-hum.

**LINEHAN:** Thank you, Senator Flood. Other questions? Seeing none, thank you very much for being here, Mr. Keigher.

**TIM KEIGHER:** Thank you.

**LINEHAN:** Are there other proponents? Are there any opponents? Is there anyone wanting to testify in the neutral position? So we had no record, no written testimony submitted this morning. We had one letter for the record, proponent, no opponents, and no neutrals. Senator Murman, would you like to close?

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**MURMAN:** Thank you for your consideration of this bill, because of the varying interpretations over the years, it's been important to better clarify these terms to aid the agricultural community and the Department of Revenue in the application of this statute. I ask for your support and timely consideration of the bill. I could just add that on my dairy barn, I do have fans and I don't have curtains because I have big windows on the sides. But those fans don't last very long because they run almost continuously from, say, April till October-- through October. So they don't last very long and they have to be replaced often. I'll take any questions that anybody has.

**LINEHAN:** Are there any questions for Senator Murman? You would work with the committee if some have concerns?

**MURMAN:** Sure.

**LINEHAN:** OK. All right then, thank you very much. And that brings our closing-- not closing, brings our hearing on LB672 to a close.