

Transcript Prepared by Clerk of the Legislature Transcribers Office
Revenue Committee February 25, 2022

LINDSTROM: We will start the hearing if everybody can grab a seat. I was thinking she was leaving. Welcome to the Revenue, Revenue Committee public hearing. My name is Brett Lindstrom. I'm from Omaha. I represent District 18. I serve as Vice Chair of this committee. The committee will take up the bills in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. On our hearing today-- our hearing today is your part of the public process. This is your opportunity to express your position on proposed legislation before us today. We do ask that you limit or eliminate handouts. This is an important note. If you're unable to attend a public hearing and would like your position stated for the record, you must submit your position and any comments using the legislative-- Legislature's online database by 12 p.m. the prior day to the hearing. Letters emailed to a senator or staff member will not be a part of the permanent record. You must use the online database in order to become part of the permanent record. To facilitate today's proceedings, I ask that you abide by the following procedures. Please turn off your cell phones and other electronic devices. The order of testimony will be introducer, proponents, opponents, neutral, and closing remarks. If you will be testifying, please complete the green form and hand it to the committee clerk when you come to testify. If you have written materials and would like them to be distributed to the committee, please hand them to the page to distribute. We need 11 copies for all committee members and staff. If you need additional copies, please ask a page to make copies for you now. When you begin to testify, please state and spell your name. For the record, please be concise. It is my request that you limit your testimony to five minutes, which will be a green light. And then with one minute to go, you'll get the yellow right-- yellow light and at red, please wrap up your comments. If your remarks were reflected in previous testimony or if you'd like a position to be known but do not wish to testify, please sign the white form at the back of the room and we'll be-- it will be included in today's official record. We ask that you please speak directly into the microphone for our transcribers. That is not for amplification, but for our transcribers. I'd like to introduce the committee staff. To my left is Mary Jane Egr Edson, who's legal counsel. To my-- further left is research analyst, Kay Bergquist. At the end of the table is committee clerk, Grant Latimer. And we will have the senators introduce themselves starting with Senator Pahls.

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

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

FLOOD: Mike Flood, District 19, Madison and southern Pierce County.

ALBRECHT: Hi. Joni Albrecht, District 17: Wayne, Thurston, Dakota, and portions of Dixon County.

LINDSTROM: And then our pages today are Kennedy and Ritsa, both are at UNL. Kennedy is studying political science and Ritsa is studying political science and economics. Please remember that senators may come and go during our hearing, as they may have bills to introduce in other committees. We ask that you please refrain from applause or any other indications of support. And lastly, we do use electronic devices for our information. So if you see us referencing those, it's not an indication that we're not listening, just part of gathering information. And with that, we will open the hearing on LB1209 introduced by Chairwoman Linehan.

LINEHAN: Thank you. Good afternoon, Vice Chairman Lindstrom and members of the Revenue Committee. My name is Lou Ann Linehan, L-o-u A-n-n L-i-n-e-h-a-n. I am here to introduce LB1209. LB1209 addresses an unfair consequence of Nebraska's contractor loss. The pages are handing out copies of the contractor options at a glance from the Department of Revenue. This should give you a quick and easy way to understand how the sales and use tax applies to contractors and the customers. Simple, right? What ends up happening is this: if you are a manufacturer and you buy manufacturing machinery and equipment known as MM&E and have it installed by a contractor you bought it from, you will lose your exemption from the sales tax because of an option chosen by your contractor in certain cases. If you install it yourself, you will still get the exemption in certain cases. Why does the option chosen by the contractor dictate whether a qualified manufacturer purchasing MM&E retains the sales and use tax exemption that they should otherwise clearly be entitled to? Sorry. Nebraska law already allows for what is known as a purchasing agent authorization, PAA. Exempt organizations are allowed to pass through their exempt status to their contractors so that purchases are made tax free. LB1209 would do the same thing for manufacturers, regardless of the contractor they chose to purchase and install the MM&E. I have brought with me AM1977, which have the-- you handed out? I think we handed out. OK-- which further adds clarification to the bill. This language is almost identical to the language we use for exempt organizations. That language allows the customers to file a refund claim for the tax paid by the contractors. The green copy only addressed the refund

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claims filed by the contractor. I understand the fiscal note is not significant, but this really is a question of fairness. I would ask you to support LB1209 and would answer any questions.

LINDSTROM: Thank you, Senator Linehan. Any questions from the committee? Seeing none, thank you. We'll have our first proponent. Good afternoon.

SHANA DAHLGREN: Good afternoon. Member-- Mr. Chairman and members of the Revenue Committee, my name is Shana Dahlgren, spelled S-h-a-n-a D-a-h-l-g-r-e-n. I am the chief financial officer for KAAPA Ethanol Holdings and appearing before you today in support of LB1209. First, I want to thank Senator Linehan for introducing LB1209. LB1209 addresses a disparity in Nebraska's current tax structure that requires the same manufacturing machinery and equipment to be taxed differently, depending on who is installing the equipment. The Nebraska Legislature has taken steps to exempt manufacturing processing equipment from sales and use tax since January 1 of 2006 and LB1209 would provide for equal treatment for manufacturers for installation of the same pieces of equipment. Under the current sales and use tax regimen, a manufacturer who has the internal resources and technical expertise to purchase and install new manufacturing equipment themselves wouldn't be subject to the sales and use tax. They are eligible for the buyer-based tax exemption. However, another manufacturer who is adding the same new manufacturing equipment, but does not have the internal resources and technical expertise to install the equipment themselves would be required to hire a contractor to complete the project. Depending on the contractor's option selection, their purchase for-- purchases for equipment and materials would likely be subject to tax-- to sales and use tax, therefore passing on the increased sales and use tax cost to the manufacturer. Same equipment, different tax treatment. Manufacturers with their own technical expertise are more likely to be advantaged by Nebraska's current exemption for manufacturing machinery and equipment if they are able to install the equipment themselves. Manufacturers without the same internal technical expertise, expertise are less likely to be able to take advantage of Nebraska's exemption for manufacturing machinery and equipment if they have to turn to a contractor for installation. In addition, this is a competitiveness issue for Nebraska. Other states, including neighboring Iowa and Kansas, exempt installation of manufacturing machinery and equipment from sales and use tax, regardless of who is installing the equipment. In today's highly competitive marketplace for business expansion and investment, Nebraska's uneven sales tax exemption scheme is a disadvantage. LB1209 takes a step forward in addressing the disparity and equalizing the playing field between manufacturers with different

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means to install the same equipment. LB1209 addresses a question in fairness-- of, of fairness in Nebraska's tax code. I urge the Revenue Committee to advance LB1209 to General File and I'd be happy to answer any questions that you have.

LINDSTROM: Thank you. Any questions from the committee? Senator Pahls.

PAHLS: I just have one. Just give me an example of a manufacturer you're referring to so I can get my brain wrapped around it.

SHANA DAHLGREN: So we have ethanol plants and our production equipment is often very large, like, pipes, hydro-heaters, tubes, you know, very large equipment that requires, you know, contractors to come in. And what they-- the contracting term is termed "annex" the equipment to our-- to the structure to support the equipment and so its manufacturing equipment, process piping. Those are the types of equipment that we often require a contractor to come in and install that. And even if we today buy the equipment ourselves but have someone install it, the contractor is considered the consumer of the materials then and that then forces it to be subject to sales and use tax.

PAHLS: Thank you.

LINDSTROM: Any other questions from the committee? Senator Albrecht.

ALBRECHT: Thank you, Chair. I do have-- did you provide this for us by chance or was that from Senator Linehan?

SHANA DAHLGREN: That was from Senator Linehan.

ALBRECHT: OK. So you're talking about ethanol plants. How would this work with other manufacturing type industries? Would, would they be subjected to the same kind of thing that the ethanol plants are that they--

SHANA DAHLGREN: A lot of other manufacturing-- and I-- my prior industry experience came from, like, medical device manufacturing. And in that case, we had Larry-- just a very similar-- it was just a manufacturing line that, you know, went down in a building. You know, we didn't require contractors to come in and hook that stuff up. We basically had some, you know, electricity and air-- you know, compressed air that we hooked into the processing line. So a lot of the traditional line manufacturing facilities don't require contractors to have to come in and install their equipment. A lot of those companies are able to install that equipment themselves. So

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those types of manufacturers probably haven't been subject to, you know, the equipment being taxed because they're not having to utilize contractors to install it.

ALBRECHT: OK and is there like an amount that you can just-- off the top of your head, at an ethanol plant, what kind of money would, would we be talking-- is that in the fiscal note? Is that how they came up with these numbers in the fiscal note do you think?

SHANA DAHLGREN: You know, I'm not sure how they derive the numbers in the fiscal note. In the past, we were an LB775 project and so we were able to get the tax back through LB775.

ALBRECHT: That's right, yep, yep.

SHANA DAHLGREN: And so that makes me wonder, you know, like, the fiscal note, you know, if they were taking into consideration the funds that would have been refunded back in those programs. I'm not sure how that was calculated. One of the other things in our particular industry, like Nebraska Advantage, we're not a heavily intense labor type of industry. So if we go in and spend a lot of money on an expansion, we're not necessarily adding a tremendous amount of headcount and so we don't necessarily qualify for those programs because of the headcount--

ALBRECHT: OK, thank you very much.

SHANA DAHLGREN: --additions.

LINDSTROM: Any other questions? Seeing none, thank you. Next proponent.

DAWN CALDWELL: Yes, you can take that. Good afternoon, Senator Lindstrom and committee. My name is Dawn Caldwell, D-a-w-n C-a-l-d-w-e-l-l. I'm the executive director of Renewable Fuels Nebraska, the trade organ-- organization for Nebraska's 2.2 billion gallon per year ethanol industry. And yes, just like last time I was here, we're still second to Iowa. I told you guys I would always bring that up, so. RFN's producer member companies support LB1209, which would simply provide fairness when applying Nebraska sales and use tax exemptions for installed manufacturing machinery and equipment. You heard from Ms. Dahlgren that sales tax exemptions are discriminately applied when it comes to installing manufacturing machinery and equipment, depending on the category of the contractor. I attended the National Ethanol Conference earlier this week and the excitement around bolt-on value-added technology for ethanol plants is real. We

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encourage legislation such as LB1209 to continue to bolster an inviting and progressive business climate in Nebraska to not only promote expansion of current businesses, but also be welcoming to new industry. A sincere thank you to Senator Linehan for introducing LB1209 and I do ask that you please choose to level the playing field and advance this bill to the General File. Thank you and I am glad to respond to your questions if you have any.

LINDSTROM: Thank you. Any questions from the committee? Senator Friesen.

FRIESEN: Thank you, Vice Chair Lindstrom. So to your knowledge, is this a change in ruling from the Revenue Department? Has this always been the way they've operated?

DAWN CALDWELL: So to my knowledge, it is how they have operated. And like Shana said earlier, there were some different advantages before because of a tax bill that was a certain time, but this is how it's been throughout time for contracted installation--

FRIESEN: OK.

DAWN CALDWELL: --of added equipment.

FRIESEN: Thank you.

LINDSTROM: Any questions? Seeing none, thank you. Next proponent.

STACY WATSON: Good afternoon, Senator Lindstrom and committee. My name is Stacy Watson, S-t-a-c-y W-a-t-s-o-n, and I'm here to represent the Nebraska Omaha and Lincoln Chambers in favor of LB1209. Basically, I look at this from two different perspectives; both the manufacturer and the contractor perspective. This basically evens out options one, two, and three. So they all get the same benefits when they're doing the same work for the same type of customer. So right now, if an option one were to go in to do the work, they wouldn't have to charge sales tax. So they have a 7 percent advantage over option two and three contractors. So we have the same type of industry workers doing the same type of work, but yet one has to charge sales tax and one doesn't. And then, yes, for the large manufacturers, they can afford a staff on their own and so they wouldn't have to pay sales tax either. But for smaller manufacturers who can't afford to have their own staffing, they're either going to have to search out of two or three that can do work like this or they're going to use an option one contractor. So it's not a fair playing field for all contractors. The other thing is we've done this before in the area-exempt

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organizations. So when option one, two, or three contractors do work for, say, schools or churches, they're all treated the same with this purchasing agent appointment, the same form that we've now asked manufacturers again. So we have a history of allowing this so that basically you can perform the same work in the same manner and not be at a 7 percent disadvantage by doing that. So we are in support of this bill and I'm happy to take any questions you may have. I love sales tax so feel free. It's like the highlight of my day to be here, so.

LINDSTROM: Thank you. Any questions from the committee? Seeing none--

STACY WATSON: OK, great. Thanks. Have a good day.

LINDSTROM: Any other proponents? Proponents? We'll now move to opponents of LB1209. Any opponents? Seeing none, any neutral testifiers? Seeing none, Senator Linehan, if you would like to close?

LINEHAN: I just want to thank everybody that was-- that came to testify. I appreciate it very much. And I think it's just a matter of fairness. One of those things that we need to clean up so thank you.

LINDSTROM: Any final questions?

LINEHAN: Any letters for the record?

LINDSTROM: Oh. OK. No letters on LB1209 and that will end the hearing on LB1209. Thank you, Senator Linehan.

LINEHAN: Hello, Senator McKinney. Welcome.

McKINNEY: How are y'all doing? Good afternoon.

LINEHAN: Have you been here before?

McKINNEY: Yes, a couple of times.

LINEHAN: OK. I'm sorry. I get confused with here and Education.

McKINNEY: But good afternoon, Chair-- Chairwoman Linehan and members of the Revenue Committee. Today, we're here to discuss LB881, which will provide a sales tax exemption for feminine hygiene products and require detention facilities to provide feminine hygiene products to incarcerated individuals free of charge. I decided to bring this bill because although the Department of Correctional Services-- and I believe the counties as well too-- provide some feminine hygiene

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products free of charge, it also does-- they also don't take into account that a one-size-fits-all disbursement of these products do not work for many, which causes many incarcerated individuals to purchase items that fit their needs from commodity, from commodity in a canteen list. I found it interesting reading the fiscal note that there were no fiscal impact to NDCS, but the Departments of Revenue and Transportation listed in a negative impact to their respective revenue basis. To make it plain, I strongly believe that women shouldn't be taxed nor upsold on products that are essential to their daily lives. We give many tax, tax exemptions in our state to many that some might argue don't need any tax exemptions because of their welfare industry. In contrast, incarcerated women are not in a position to even make our state's minimum wage in most cases. We should be doing all we can to practice human decency, especially as representatives of our respective districts. I know what is a no-brainer to me may not be a no-brainer to some. Even so, I believe that we should be, we should be practicing basic human decency and humanity this session. An article done by the ACLU, which was entitled "The Unequal Price of Periods: Menstrual Equity in the United States," points to an imbalance of power that can create more consequences, as many facilities require incarcerated individuals to ask correctional officers for menstrual products. Officers may use incarcerated people's basic hygiene needs to coerce them for sexual or other favors or to punish them for, for many reasons. They may also use the threat of withholding necessary products to keep these individuals in line or to prevent them from reporting abuse or other harmful conditions. These possibilities are not just abstract. Many incarcerated individuals have had to-- have had the negative difficulty of accessing menstrual products that should have been made freely available to them. In cases where products are not provided or not sufficient, individuals who are incarcerated may have no recourse but to purchase some or all of their monthly supply. Many facilities offered too few or only low-quality pads, such as those without adhesive. Therefore, those who require more products than the subpar allotment products are-- that are more effective or more comfortable or prefer to use tampons must purchase them from the prison commissary, often at inflated prices. It is not only, it's not only adult facilities that provide insufficient resources. Young people in juvenile justice facilities may also lack consistent access to menstrual and other hygiene products, which is why this bill was not limited only to the adult population. Before I close, I just want to say, let's practice humanity this session and move this bill out of committee in order to make the lives of those incarcerated better by decreasing the burden of purchasing these products. Twenty-one states currently have some form of no tax on

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feminine products. LB881 is just asking to provide an exemption for feminine hygiene products and require detention facilities to provide feminine hygiene products to those incarcerated free of charge. I do not believe that is asking too much. Thank you and I'm open to any questions.

LINEHAN: Thank you very much, Senator McKinney. Are there questions from the committee? Senator Albrecht.

ALBRECHT: Thank you, Chair. OK, I just have a question. Do they get paid to be in jail? I mean, how do they afford these?

McKINNEY: Some of them work, work, you know, different jobs with like-- they work different jobs, so--

ALBRECHT: But they can get paid?

McKINNEY: --they get like \$1.21. Some of them get \$1.21 a day, but I know-- I didn't have the data for sure on the women facilities, but I know in the men's facilities, some of them could work at other jobs that pay a lot more than \$1.21, but I didn't have the specific data on the women, so I didn't say it.

ALBRECHT: I just didn't know if they got paid to do anything, which--

McKINNEY: Some of them do, like porters and things like that.

ALBRECHT: Hmm, so this is an interesting bill.

McKINNEY: Yeah.

ALBRECHT: Thanks for bringing it.

McKINNEY: No problem.

LINEHAN: Thank you, Senator Albrecht. Other questions from the committee? Seeing none, thank you very much for bringing it.

McKINNEY: No problem.

LINEHAN: So I'm-- you've handed out these sheets. I'm sorry, I'm-- I wasn't going to ask this. So it looks like Douglas County doesn't charge for tampons, but the correctional facility does?

McKINNEY: Yeah, it differs between the state and the county. And although they provide some free items, some of those--

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LINEHAN: Not the more expensive--

McKINNEY: --free items don't work for some people so they have to buy them on the, on the canteen list.

LINEHAN: OK. Oh, yes, Senator Flood.

FLOOD: Thank you, Senator Linehan. Yesterday we, we discussed this bill and what's the Department of Corrections-- what do we provide female inmates for hygiene products? Do we sell those to inmates or are they provided for free?

McKINNEY: We have-- so they have some that are free of charge, but it's like generic products. So some of the women have to resort to the canteen list to purchase what actually works for them.

FLOOD: OK.

McKINNEY: Yep.

FLOOD: But there is-- we do provide--

McKINNEY: We provide some, it's just what they are is the--

FLOOD: OK, there's a preference.

McKINNEY: Yeah.

FLOOD: OK, thank you.

McKINNEY: No problem.

LINEHAN: Thank you, Senator Flood. Any other questions? I don't see any. Thank you very much. Proponents.

SCOUT RICHTERS: Hello.

LINEHAN: Good afternoon.

SCOUT RICHTERS: Afternoon. My name is Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of the ACLU of Nebraska in support of LB881. First like to thank Senator McKinney for bringing this bill, as accessible menstrual products are vital for the health, well-being, and full participation of people who menstruate in all aspects of society. Turning first to the tax portion of the bill, menstrual products are necessities like medicine and food, which have long been exempt from sales tax, and the Nebraska Tax Code should reflect this

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reality. Subjecting menstrual supplies to sales tax is just one of the many ways in which women and others who menstruate are punished financially simply for their biology. Under current law, Nebraska women must pay a tax that, that men don't. Inadequate menstrual support is also associated with both health and psychosocial issues, particularly among low-income women. People living in poverty are disproportionately affected by a lack of access to medical products. Low-income women are not able to purchase these menstrual products through government assistance programs and they are one of the most requested items at shelters and food banks as well. Additionally, LB881 requires Nebraska juvenile facilities, jails, and prisons to provide these, these products to those in custody free of charge. As Senator McKinney did mention, the ACLU has conducted extensive research and advocacy on these matters and in conjunction with work with Senator Pansing Brooks and Corrections officials, we were able to achieve some important policy and price changes, but we, we do continue to hear stories from people in Nebraska prisons and jails that, that shed light on the difficulty of accessing healthcare and paying for tampons and pads. In fact, many women actually pay more for these products in a facility than they would at a grocery store. Stories of women bleeding for days without access to menstrual products and lacking a variety of products that can be used by every menstruating person and others have come out of Nebraska facilities that we've heard. These experiences have serious consequences. Improper and extended use of menstrual products can be dangerous, leading to infections and susceptibility to infertility and even cancer. Incarcerated people are in the custody of the state and rely on prison and jail staff to meet their medical needs and so menstrual equity is desperately needed in prisons and jails, as well as juvenile detention facilities. So wrapping up, this legislation is part of a growing trend and really presents the opportunity to support reproductive rights, gender equity, racial justice, prisoners' rights, and I think that by supporting this bill, the Revenue Committee and the Legislature can show we care about providing basic healthcare and safety to all menstruating people.

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

SCOUT RICHTERS: Thank you.

LINEHAN: Next proponent. Good afternoon.

ARYN HUCK: Good afternoon. Thank you, Senator Linehan and senators of the Revenue Committee, for the opportunity to provide testimony as

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part of the committee record. My name is Aryn Huck, spelled A-r-y-n H-u-c-k. I am the community organizer of OutNebraska, which is a statewide nonprofit working to celebrate and empower lesbian, gay, bisexual, transgender, and queer and questioning or LGBTQ Nebraskans. OutNebraska is in full support of LB881. Menstrual hygiene products are necessary goods that allow thousands of Nebraskans to comfortably work, learn, and go about their daily lives. The 2020 U.S. Census showed that 50 percent of Nebraska is female and to turn that into a number, that is 981,846 Nebraskans. We assume that a majority of them will menstruate sometime in their lifetime. This bill impacts them. Tampons, pantliners, menstrual cups, sanitary napkins, and other menstrual hygiene products are not optional for people who menstruate. There is no off-switch or control valve for menstrual blood. If you lined up every day someone menstruating from the start of a menstrual cycle to menopause, a single person would spend roughly eight years menstruating. This is a significant portion of someone's lifetime and it requires proper sanitation for their safety and health. Without access to basic sanitary products, menstruating people risk physical harms like infection and shock, as well as mental, social, and professional harms from loss of confidence, social exclusion, and societal shaming. By removing the sales tax, Nebraska acknowledges that these products are essential for one's basic health and contribution to society. And when less money is spent on basic necessities, Nebraskans have more money back in their pockets. This, in turn, reenters our economy through goods bought, small businesses, and financial savings. The second part of LB881 focuses on providing these necessary menstrual hygiene products to those who are incarcerated. We support this section too. LGBTQ people, especially young and black and brown people, are overrepresented in incarcerated populations. LGBTQ youth are also more likely to experience long stays in juvenile facilities, which make them more likely to need menstruation products. Entering a detention facility does not mean you stop being human. You still have your basic biological functions, which includes menstrual bleeding. It is unfair to expect someone who does not have the ability to earn a real wage to pay for products they need every month. How are they supposed to pay for menstrual products by bleeding through their savings, leaving them worse off than when they enter the justice system? What about juveniles? Are they supposed to rely on outside friends and family? There's a lot of questions here. If they can't pay, it robs them of their humanity and dignity to not provide essential products like pads and tampons. If we truly expect someone to focus on rehabilitation, we must remove barriers that dehumanize them. We cannot deny them the basic dignity of controlled management of their hygiene. Rehabilitation to not include humiliation. LB881 is

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necessary for a fair and equal Nebraska. We're grateful for Senator McKinney for bringing this issue forward and we have a small ask that we brought up with him beforehand to ensure that the language of this legislation is inclusive and accurate for all Nebraskans. We just would ask-- recommend that the term "feminine hygiene product" be replaced with "menstrual hygiene product" as it's more inclusive, more clear, and more accurate. We also asked for a small clarification in Section 8 on page 14 just to clarify if this would include transgender and nonbinary people who menstruate. We just want to ensure that anyone who needs menstrual products is covered by this bill. We all deserve to live with dignity-- sorry, with dignity as we go about our lives. We ask you to support LB881, as it would ensure that we all can care for our bodies during menstruation, which is the natural biological occurrence for half of Nebraskans. Thank you again for hearing me today. Again, we urge you to advance LB881 to General File and I'm available for any questions if you have them.

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

ARYN HUCK: Thank you.

LINEHAN: Are there other proponents? Are there any opponents? Anyone wanting to testify in the neutral position? Good afternoon.

JON CANNON: Good afternoon, Chairwoman Linehan, distinguished members of the Revenue Committee. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials, also known as NACO, here to testify in a neutral capacity on LB881. First and foremost, thanks to Senator McKinney for bringing this bill. He's been a tireless advocate on these particular issues and I'm glad that we can review the revenue aspects of it here before this committee. We have no opinion from NACO on the sales tax impact. That's frankly not really our bailiwick. And by and large, this is something that we already provide to our inmates for free. The bill, as written, says you provide a feminine hygiene product. It doesn't specify a type, a class, you know, whether it's good, bad, or indifferent. And so that is by and large what the jails in county-- what the county jails in Nebraska have been doing has been-- they do provide those for free. Now the question is, is whether or not they're providing something that's adequate. That is not in this bill and that's probably a conversation that we would want to have at a different time. To the extent that we provide generic material, this is in keeping with the very conservative purchasing decisions that county governments make. We don't buy gold, gold-plated road graders.

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We don't mix diamond dust in with our, our gravel that we have for graveling the roads and this is in keeping with that, that philosophy. And so I would be happy to take any questions you might have.

LINEHAN: Thank you, Mr. Cannon. Are there questions from the committee? Seeing none, thank you.

JON CANNON: Thank you.

LINEHAN: That was neutral, right? Is there any other neutral position? Senator McKinney, would you like to close? Yes, you would.

McKINNEY: First, I want to say thank you to everyone that came and testified and then just also I just think, you know, this is-- I mean, it's-- I, I wouldn't-- I just think it's a-- doing this and, you know, moving LB881 forward would be a step in the right direction for our state to improve the conditions and, you know, the system of criminal justice in our state and making sure that women and others that are incarcerated that need these products can get them. And I know counties in the state provide them free of charge, but it's not-- one day they could wake up and not-- it could not be free of charge. So just making sure we put it into statute, but also provide for the exemption, the tax exemption on these products. And my wild idea would have say for, you know, for the public too, but I probably would have got a lot of pushback and there probably would have been a lot of people in here. So I limited to, you know, you know, detention facilities within our state. And I, and I think that's fair and I just hope we can work out something to get this out. If you guys put together on any omnibus bill, we throw this in there, but I think it's important for our state. Thank you.

LINEHAN: Thank you. We might have a couple of questions, Senator McKinney. So you say they provide them, but then you handed out this list, which is--

McKINNEY: Yeah.

LINEHAN: --key-- is this from, is this our department?

McKINNEY: So one-- the, the one that looks like an Excel spreadsheet is NDCS. That one I believe I'm looking at is Douglas or Sarpy. So one is Douglas, one is Sarpy, and one is the state.

LINEHAN: OK.

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McKINNEY: And one might be Lancaster, but yeah. If it's four, one is Lancaster.

LINEHAN: Because there's-- they list costs for tampons, so they're freely-- they're not free if they're-- cost money.

McKINNEY: No, they provide a free generic supply, but when you need-- when you don't want the generic supply--

LINEHAN: So like--

McKINNEY: Yeah.

LINEHAN: --the free--

McKINNEY: Right. And I'm not a woman so I don't know what's acceptable or not.

LINEHAN: Yeah, I know. This is very complicated for you so let me help you. They provide a bulky, free, 1950s-style menstrual napkin.

McKINNEY: Yeah.

LINEHAN: OK, got it.

ALBRECHT: That wouldn't work.

LINEHAN: I think we can handle it. Then the other thing-- and I should have asked her-- the young woman from ACLU. She said that-- I think-- I can't remember how she said it so I'm going to say what I hear. You can't use SNAP to buy menstrual products because she said that-- like, if you're on--

McKINNEY: I don't think you can. I think SNAP is limited to food.

LINEHAN: OK, well, that would-- I would be--

McKINNEY: --in our state.

LINEHAN: --very interested in an answer on that and if they can't, then what are they supposed to do?

McKINNEY: Yeah, I-- in other states, it might be a little more flexible, but I've never heard of anybody using SNAP for those products in our state--

LINEHAN: OK, OK.

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McKINNEY: --but I could be wrong, but yeah.

LINEHAN: OK, I would like-- all right. Any other questions? Senator Pahls.

PAHLS: Just-- I'm just curious. Do you think probably-- or I shouldn't say probably, but possibly many of these institutions are ran by men and we don't get it?

McKINNEY: I think we might have one woman warden in, in the state.

PAHLS: OK.

McKINNEY: I forget, but it might be OCC.

PAHLS: OK.

McKINNEY: Yeah.

PAHLS: But I would just think a lot of times, men, when we just don't-- I mean--

McKINNEY: Just don't understand.

PAHLS: When we talk about stuff that I--

LINEHAN: OK. OK, any other questions? I'm sorry. I am very punchy. OK, thank you very much, Senator McKinney, for being here.

McKINNEY: No problem.

LINEHAN: Oh and we had-- we did have six proponents, no opponents, and one neutral, so thank you. With that, we will close the hearing on LB881 and open the hearing on LB941.

SLAMA: I'm not quite sure how I follow that hearing.

LINEHAN: We'll let you know when it gets to the floor.

SLAMA: Fair enough. Good afternoon, Chairwoman Linehan and members of the Revenue Committee. My name is Julie Slama, J-u-l-i-e S-l-a-m-a, and I represent District 1 in southeast Nebraska. I'm here today to introduce LB941, which would provide a sales and use tax exemption for net wrap. If you aren't aware, net wrap is the wrap that they use to make hay bales. As currently written, Statute 77-2704.36 provides a sales and use tax exemption for ag machinery and equipment that is purchased, leased, or rented for use in commercial agriculture. This

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would include both large equipment, such as combines and even supplies on the other end of the spectrum. Net wrap, I believe, falls under this category of ag equipment that is purchased for commercial agricultural use. It is the plastic wrap that holds together bales of hay and is used commonly in my district and across the state. However, while some distributors sell net wrap as exempt from sale and use taxes, others do not. LB941 would just clarify and make it abundantly clear in statute that net wrap is in fact ag equipment that should be exempt from taxes, just like anything else under that subject manner [SIC]. Farmers in my district brought this issue to my attention late last year. One of these farmers, my predecessor and former Lieutenant Governor Heidemann, is here to speak about his experience trying to buy net wrap in our state. I look forward to working with the committee to get this bill passed. Thank you and I would be happy to try answering any questions you may have, but there is an expert testifying behind me.

LINEHAN: Thank you, Senator Slama. Are there any questions from the committee? Looks like none. Thank you.

SLAMA: Thank you

LINEHAN: First proponent. Good afternoon.

LAVON HEIDEMANN: Good afternoon, Chairperson Linehan and members of the Revenue Committee. My name is Lavon Heidemann, L-a-v-o-n, Heidemann, H-e-i-d-e-m-a-n-n, excuse me. I'm here today to express support on LB941 on behalf of Nebraska Cattlemen, Nebraska Farm Bureau, Nebraska Pork Producers Association, Nebraska Soybean Association. For context, if you, if you drive through the country, you see these big round bales out in fields. There's usually net wrap-- sometimes twine, usually most of the time, though, it's net wrap-- sheds moisture very well and it keeps the bale contained, used mainly for when you do hay, straw, and cornstalks. This started last fall for me and I knew of this issue prior to that. We had bought-- my boy and I had bought about \$3,000 or \$4,000 worth of the net wrap and they charged sales tax and I asked the question to this dealer and I said it's not always charged on net wrap. And he says, I understand that, he says, but I don't understand it. We just charge it. And he says, if you want to get your money back, you go to the Department of Revenue and ask them if you can get your money back. And just every once in a while, things like that just kind of frustrate me so I called Senator Slama and we talked about it a little bit and we decided-- she decided to try to run a bill to just get, if nothing else, clarity. And if I could ask anything to do-- a day is that we

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could get some type of clarity, whether yes or no. I realize that government is important and we need government. We need money to run government. That's why we have taxes. I would think, though, that if we have to have taxes, they should be fair and they should be clear and I don't think this issue on sales tax on net wrap is either one of those two. There are more issues when it comes to sales tax on farm, farm supplies that, that aren't very clear, but at least this would be one that maybe we could get a little bit clearer and limit it to the point of either doing it or not. I hate to say that doing it part, but it just-- there's so many-- there are some dealers-- I went around after this happened to me and I went to other dealers and some of them said, well, we don't charge it. I didn't know you're supposed to. And there's other ones that just actually charge for everything, you know, because they don't want to get in trouble. So I would ask that you try to get a little bit of clarity on this situation. Want to-- I do think Senator Slama for introducing this and, and for her support of agriculture. And if you have any questions, I would try to answer them.

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

FLOOD: Senator Heidemann, thank you for your prior service. How many years were you on the Appropriations Committee?

LAVON HEIDEMANN: Eight.

FLOOD: Does the Appropriations Committee operate like a team?

ALBRECHT: [INAUDIBLE]

LAVON HEIDEMANN: When we got the budget to the floor, we was a team, day in and day out and I appreciated that. And we took-- we had differences, but we took care of those in committee.

FLOOD: We're a team too.

LAVON HEIDEMANN: I don't know where this is going or why this is here, but--

LINEHAN: It's Friday. What was Fridays like when you were there?

FLOOD: Isn't it odd that the appropriators come here? We're trying to keep up so they have money to spend and here you are asking for another handout.

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LAVON HEIDEMANN: I really don't look at it that way, but if that's your opinion--

FLOOD: Oh, with all due candor. Thank you very much.

LINEHAN: Oh, Senator Pahls.

PAHLS: Right. If you recall, though, I think the Chair of Appropriation-- he was before your time-- Peterson or Pederson?

LAVON HEIDEMANN: Don Pederson.

PAHLS: And one time on the floor, he did reverse of what the committee wanted. But, but let me address this to you. I know you're sincere on this because last year when you came and was supportive of the inheritance tax, leaving it alone, showed me that you were a person trying to make things work. And even though that did financially probably hurt you, you understood the need of that, right? And I still appreciate your attitude. I don't need to go into that and I just-- to me, you seem as a person who wants to get it done and I thank you for that.

LAVON HEIDEMANN: I always try to figure out what's right and then try to do that.

PAHLS: I, I appreciate that.

LINEHAN: Are there any other questions from the committee? We've had a long week.

LAVON HEIDEMANN: Have a good weekend.

LINEHAN: We will, thank you.

LAVON HEIDEMANN: Thank you very much.

LINEHAN: Thank you very much for being here. Are there any other proponents? Any opponents? Anyone wanting to testify in neutral position? I need to really stop it. So we, we will bring the healing-- hearing on LB941 to a close.

SLAMA: Oh, I was just going to--

LINEHAN: Oh, sorry, sorry.

SLAMA: Two seconds.

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LINEHAN: Yes.

SLAMA: No, I want to--

LINEHAN: Where did he go? I'm gonna need a pinch hitter here.

SLAMA: No worries. You're fine. I did just want to give some background as to the need for a bill on this position. I'm sure everyone's questioning, well, why not just clarify it in the regs? When I communicated with the Department of Revenue with this issue, they said they would not comment on any proposed concepts like that until we introduced a bill. I'm hopeful that this bill, once passed, can provide some really, really needed clarity because this is talking about hundreds of, hundreds of extra dollars in transactions for farmers that are barely making it by as it is. So I think this is an easy way we can clean up our statutes and make it clear that net wrap is exempt. So thank you very much for your consideration. I appreciate it.

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

SLAMA: Thank you.

LINEHAN: So now we will close the hearing on LB941 and open the hearing on LB944. Good afternoon, Senator McCollister.

McCOLLISTER: Good afternoon, my former committee. I miss you. Good afternoon.

LINEHAN: Bostar doesn't miss you because you wouldn't be here.

PAHLS: He still doesn't, but--

McCOLLISTER: Some people don't miss me, I'm sure. Good afternoon, Chairperson Linehan and members of the Revenue Committee. I am John, J-o-h-n, McCollister, M-c-C-o-l-l-i-s-t-e-r, and I represent the 20th Legislative District in Omaha. In 1983, this Legislature passed a state sales tax exemption for grocery store food items. Dozens of other states now have similar exemptions, the motivating idea being that we all have to eat and that taxes on grocery store food items impose a disproportionate burden upon low-income working families. Today, I'm introducing LB944 to phase out the state sales tax on electricity. In today's world, electricity is as much of a necessity as food. In fact, taxes on residential, residential consumption of electricity are one of the few kinds of taxes that weigh as heavily on

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low-income/middle-income families as taxes on grocery store food items. This is a tax cut, one that benefits everyone, especially working families and small business owners. I estimate that the net impact of the general fund of entirely eliminating sales tax on electricity is about \$100 million a year, roughly half of the annual cost of the sales tax exemption for grocery store food items. LB944 phases in this tax cut over time, allowing economic growth to help balance the reduction in revenue as it phase-- as it phases in this tax cut and in a way that tackles another important issue, climate change, which I believe is an existential threat to future generations of Nebraskans. Surely you must recognize that severe weather like the floods of 2019 pose a major threat to Nebraska's economy. It makes sense on many levels at major Nebraska utilities, including NPPD, OPPD, LES, and others, have all committed to become net-zero CO2, most by 2050. LB944 encourages these efforts and helps ensure that customers see the benefits in the form of lower power bills. It implements what I call a climate action tax cut by tying the state sales tax rate on electricity to carbon intensity of utility operations. As carbon intensity goes down, the sales tax rate goes down as well. It's a positive feedback loop that ends with zero carbon emissions and zero state sales tax on electricity, a win-win. Four technical issues: first, carbon intensity is measured by a well-known, free-of-charge protocol from a nonprofit called the Climate Registry. Second, the bill complies with a seem-- streamlined sales and use tax agreement that Nebraska joined in 2005. Third, local sales tax rates are unaffected. The bill focuses on the state sales tax rate. Finally, the bill focuses on taxes on residential and commercial consumers of electricity because industrial consumers are already exempt. I will note that this is not a new idea, one that aims to help bridge the partisan divide about climate change by connecting a climate change action to a tax cut that benefits everyone in Nebraska. Feedback from utility experts and others have been generally positive, but with two suggestions for improvement. The first is to specify that carbon intensity be measured with a generation-based metric rather than a delivery-based metric. The second is to make sales tax reductions provider specific rather than statewide so that each utility benefits as much as possible from its own carbon reduction efforts. A bill like this may require several years of refinement to pass, but it's important to start this conversation to reduce this regressive tax and also help the environment now. I thank you for your time and I ask for your support for LB944. I'm happy to answer your questions.

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LINEHAN: Thank you, Senator McCollister. Are there questions from the committee? I'm kind of dumbfounded by the fiscal note. I don't know-- they can't figure out what it would cost? How is that possible?

McCOLLISTER: Those are the numbers I got. I, I can look into that a little further.

LINEHAN: Well, maybe I'm not seeing something here. Is there anybody else--

McCOLLISTER: Is it--

LINEHAN: I mean, they know how much electricity-- they must have some guess of what the electricity costs are.

McCOLLISTER: Is it your contention that number should be higher?

LINEHAN: Yeah.

McCOLLISTER: OK.

LINEHAN: But it would be helpful if we had some clue. I mean, even a bad guess is better than no guess.

McCOLLISTER: if it helps the cause of this bill, I'll get that number.

LINEHAN: Well, I think-- yeah, I think this is not-- yeah, you should go ask-- like, give me some numbers. OK, any other questions? OK, thank you. Are there proponents? Are there opponents? Anyone in the neutral position? Would you like to close? Oh, let me see. We had one pro-- no, wait a minute-- two proponent letters and one opponent letter for the record. So close?

McCOLLISTER: As the Chairperson indicated, it's been a long week so I will end my testimony right now.

LINEHAN: Thank you very much, Senator McCollister. Appreciate it. Have a good weekend.

McCOLLISTER: You too.

LINEHAN: With that, we'll close the hearing on LB944 and open the hearing on LB1225. Oh, wait a minute.

LB1097.

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LINEHAN: I missed one? OK, I'm sorry. I'm sorry. LB1097, I'm sorry. Senator Halloran. Right there. I couldn't see you. There you are. How are you?

HALLORAN: Good, how are you?

LINEHAN: I'm fine. I'm good.

HALLORAN: Good afternoon, Chairwoman Linehan and members of the Revenue Committee. I keep looking for adjustments on these seats, but they don't exist.

LINEHAN: I don't know why-- that chair is very awkward. I'm-- like, it's an awkward chair. I don't know why. It seems awkward.

HALLORAN: I feel like I'm in second grade again. My name is Senator Steve Halloran, S-t-e-v-e H-a-l-l-o-r-a-n, and I represent the 33rd Legislative District, including Adams, Kearney, and rural population-- portion of Phelps Counties. I'm here today to introduce LB1097. LB1097 seeks to clarify our repossession laws and regulations in Nebraska. Last year, my office was approached by a constituent in the towing and repossession business who was having difficulties navigating changes made by the Department of Revenue, which would tax repossessions only when the tow truck was used in the process. Currently, repossession is not taxable in Nebraska, per Nebraska Sales and Use Tax Regulations 1-027.04, which states that transactions whereby a property is repossessed is not a sale in itself and therefore no tax is due. According to the Department of Revenue, this does not apply to repossessions with the use of a tow truck. When a tow truck is used to repossess a vehicle, the department has decided that the towing of a motor vehicle should have tax imposed based on Nebraska 77-2703 (1), which states taxes imposed upon the gross receipts from the provision of services, including motor vehicle towing, with limited exemptions. The explanation was given that if you got into a repossessed vehicle and drove it away, then it would be exempt, but if you use a tow truck to repossess the vehicle, you must pay a tax on the towing service. This unnecessary confusion causes difficulty for our small businesses to comply with our tax law. For many of these small businesses, the new edition of this tax leaves them with two options: pay the tax themselves or lose the client. The regulation clearly states a repossession is exempt from sales tax. LB1097 simply seeks to provide clarity that regardless of the mode in which the repossession occurs, it will be exempt. I would like to thank Chairwoman Linehan and the Revenue Committee for listening and I would attempt to answer any questions.

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LINEHAN: Thank you, Senator Halloran. Are there questions from the committee? Seeing none, thank you much. You must have explained it very well.

HALLORAN: You guys are worn out already? No questions for--

LINEHAN: No questions.

HALLORAN: I will stick around for closing. I don't know that there are any proponents.

LINEHAN: You didn't, like, put out a call?

HALLORAN: No.

LINEHAN: OK. Why don't you stay right there and let me see. Are there any proponents? Are there any opponents? Anyone wanting to testify in neutral position? We have no letters for the record. Senator Halloran, would you like to close?

HALLORAN: I would indeed. I would like to suggest that the fact that there is no proponents here doesn't mean that it's not, it's not an issue for some of the small businesses involved in repossession of vehicles.

LINEHAN: So what you said is whoever-- the bank or whoever is paying them to repossess, go get the car, go get the pickup, go get whatever they get, get--

HALLORAN: Right.

LINEHAN: --they, they won't reimburse them for the sales tax charge because they don't think they should be paying sales tax because this repossession and there's no repossession on sales tax [SIC].

HALLORAN: Exactly.

LINEHAN: So then the--

HALLORAN: So they have to pocket it or they have to pay for it themselves.

LINEHAN: They have to pay for it. OK, I got it. OK, thank you very much.

HALLORAN: Thank you.

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LINEHAN: With that, we'll close the hearing in LB1097 and open the hearing on LB1225. Senator Wayne.

WAYNE: Good afternoon, Chairwoman Linehan and members of the Revenue Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. LB1225 would subject financial institutions to corporate income tax and remove their eligibility for franchise tax. It's a pretty simple bill. The objective of this bill is to level the playing field in Nebraska and make sure all businesses are paying their share of taxes. Banks, financial institutions, and alike should be subject to the same taxes as every other business in Nebraska. We should not have special carve-outs. Really, I did this bill to figure out the fiscal note next year and then I went down the rabbit hole of doing more research. And there's a S chapter exemption that I-- if I add the fiscal note, would probably be bigger. And I have a problem with the fiscal note and I'll tell you here why in a second. But other states are actually eliminating this type of special franchise carve-out: Mississippi, Illinois, Tennessee, Pennsylvania, Texas, California-- see, Texas and California, they hardly agree on anything, but they agree we should eliminate this-- Alabama, Missouri, New York, Kansas, and other have all discontinued their franchise tax and the credits that come with them entirely. What's interesting about this fiscal note, it says that by 2026, \$66 million should be brought in. But in 2021, the first three quarters, banks' net profits were \$1.1 billion. So there's a disconnect in the fiscal note from \$1.1 billion to \$66 [million] over five years. I think those numbers would be higher. We are looking at ways to continue to provide property tax relief and other things. This is a fund that we should look at in the future. I definitely, after going down the rabbit hole this week of researching this, will be bringing a bill next year to figure out how to do this and make sure we get it done.

LINEHAN: Are there questions from the committee? Senator Friesen.

FRIESEN: Thank you, Chair Linehan. So right now, the tax is based on their deposits--

WAYNE: Correct.

FRIESEN: --since it's just a percentage of the reported deposits in Nebraska bank.

WAYNE: Correct.

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FRIESEN: And so--

WAYNE: I believe so, yeah.

FRIESEN: --this would eliminate that and then they would just pay corporate taxes like every other business?

WAYNE: Correct.

FRIESEN: And they-- since they use the incentive act once in a while, they could use that to buy down their credits too and their tax obligation?

WAYNE: Well, yeah. And what's even more interesting is there's a-- I think 57 banks underneath the s chore-- Chapter S exemption that don't pay any taxes at all. And so those banks, actually the state ends up owing them money. So you come here, you build a headquarters, i.e. Omaha, you-- we TIF it. We get you want to be the Imagine Act. We're going to pay you for the next ten years to be here.

FRIESEN: And now we're talking TIF.

WAYNE: See how I worked that in kind of there?

FRIESEN: Thank you. Thank you, Senator Wayne. Interesting.

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

PAHLS: I, I just have a question. You say some banks, not all banks, I don't--

WAYNE: Yeah, so the structure-- so if they're a Subchapter S, a subchapter bank, supposedly their shareholders pay the tax. But there's 57 of them, I think-- or 53. I keep getting the number confused-- that they don't pay any tax, zero, but they say their shareholders pay tax. But even under this exemption with the, with the tax credit, they're still not paying taxes and so we're trying to eliminate their franchise exemption.

PAHLS: Gonna run for Chair of Banking next year?

WAYNE: I would love to. It could be a committee priority.

LINEHAN: OK.

PAHLS: It is Friday.

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LINEHAN: Yes, it is. So I think on-- now I'm not even being [INAUDIBLE]-- S corps, it's not like they do where the, the money is-- if I'm-- and somebody behind you can correct me, but the way I believe it works, if you're an S corp, it's-- goes to you like a partnership. So you are liable for any taxes due, but if they are franchise tax, it does-- they get the credit for paying the franchise tax.

WAYNE: Correct, but if their corporate rate isn't-- if their income tax rate is lower than their corporate rate, they're paying less taxes than the corporate rate and that's what we're trying to eliminate.

LINEHAN: OK.

WAYNE: I think all companies should be treated the same.

LINEHAN: Yes. So you mentioned Tennessee. So I thought Tennessee did away with their income taxes, period.

MARY JANE EGR EDSON: No.

LINEHAN: Not on banks, OK. All right. OK, that's it. Counsel will have to answer. OK. All right, any other questions? Are you going to stay close?

WAYNE: Yes.

LINEHAN: OK.

WAYNE: Thank you. I might waive close and I just want to hear what they say.

LINEHAN: Are there any proponents? Opponents? Good afternoon.

ROBERT J. HALLSTROM: Chairperson Linehan, members of the Revenue Committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as registered lobbyist for the Nebraska Bankers Association to testify in opposition to LB1225. I've also been authorized to sign in on behalf of the Nebraska Independent Community Bankers and the Nebraska Chamber of Commerce and Industry in opposition to the measure. What I'd like to do first is maybe give the committee a brief history of the bank franchise tax, which was adopted in 1986 on the heels of a 1983 U.S. Supreme Court decision out of Tennessee, which ruled their tax was unconstitutional because it discriminated against federal obligations by taxing the interest on federal obligations and not on state bonds and other obligations. Prior to 1983, banks were taxed as corporations, but our tax was very

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similar to that in Tennessee and ultimately was deemed to be unconstitutional as well. In 1985, the Legislature appointed a task force that did a deep-dive review of all 50 states, many of which were taxing banks as corporations at that time, a few of which had a deposit tax based or hybrid type of situation. And the task force, after that review, decided that banks should be taxed on a hybrid basis, which is based on deposits and financial reporting income. And in my testimony on page 3, at that time, the task force looked to the Vermont model and they decided that a single tax rate would be equitable for all financial institutions, regardless of the size or location in the state, that reliance on average deposits and financial reporting income provided a tax that was very easy to understand and easy to compute, and the franchise tax would protect the state from unpredictable revenue losses resulting from net operating loss carryovers and carrybacks since banks were not allowed to do either of those things at that time under the deposit tax. When we look at the issue, I think the task force and what's continued to this day is a primary emphasis and noting of the fact that banks also pay a-- play a key role in being the primary purchasers of local and state-- local and political subdivision bonds and obligations. The other thing that the task force did at that time to provide some consistency is they tied the limitation rate. There's a deposit rate of 47 cents per 1,000 deposits, or a 3.81 percent at this time, limitation rate based on book net income or-- on, on net book income or financial reporting income. And so when they looked at that issue, they decided that they would tie it also to the maximum corporate income tax rate. And so I think the design was that banks couldn't come in independently and seek reductions in the rate and they couldn't be singled out by the Legislature to be the only entity that would be looking at a, at a increase in rates. We've had some questions that have talked about why the difference between the 6.84 percent rate for corporations and the 3.81 percent rate. And simply put, it's because of the vast differences between corporate taxable income and the financial reporting income of banks. And interestingly enough, when the task force looked at that issue, the corporate tax rate back in 1985 was 6.65 percent. And in, in trying to equate what you'd pay to have an effective tax rate that was comparable on taxable income and financial reporting income, the task force looked at the issue that banks, in their financial reporting income, have to include interest on otherwise tax-exempt state and local political subdivision bonds. They were not allowed to use the-- a separate tax return for holding companies. Therefore, they were disallowed to the deductions for holding company interest and administrative expenses. And at that time, they were also not allowed to use either net operate-- operating

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loss, carrybacks, or carry-forwards. So as a result, the rate was set at 3.25 percent at that time and has been tied to the maximum corporate income tax and gone up or down commensurate with any changes in the corporate income tax rate as well. I've got some comments in my S corporation issue. We had quite a bit of discussion during the briefing with the Revenue Department. Tried to address that issue and with all due respect to Senator Wayne, I'm not sure he's correctly identified the impact of the S corporations. The issue that you have there is that the bank S corporation does pay tax unlike any other S corporation, but there is a credit back to the shareholders and then the shareholders, interestingly enough, many of whom I would imagine pay 6.84 percent on all of the income that's passed through from the bank. So we already are getting 6.84 percent on all of the bank income that is passed through in an S corporation situation. And if I could just bear for a minute, even though I know it's too late Friday, I think the issue that we look at here is that in addition to paying their fair share of taxes under the bank franchise tax, that there's recognition given to what the banks do in terms of their purchasing of local political subdivision bonds to fuel that economic growth and that they're also doing things with regard to compliance with CRA that other corporations don't have obligations for. And also, I think the things that all of you recognize that they do in their local communities in terms of charitable contributions, both in terms of capital and in terms in terms of human resources and so--

LINEHAN: OK. I'm sure somebody will ask you a question.

ROBERT J. HALLSTROM: Yep.

LINEHAN: Do we have any questions from the committee? I do-- back on the S corp. I wasn't trying to imply and I don't think Senator Wayne would try to imply that they don't pay taxes, but it flows through to the owner. But the owner does get to take credit for whatever the S corp paid on that franchise tax. Like, it's his, his or her income, right?

ROBERT J. HALLSTROM: That's correct, Senator, and I think it, it would be probably more, more difficult to give you a specific example, but I, I know that Mr. Cederberg had provided an example that said if you have a, an S corporation-- nonfinancial S corporation and a bank S corporation with the same amount of taxable income, that sense the nonfinancial corporation does not pay tax, giving the shareholder the credit that will put the amount of revenues derived by the state in the same exact position by virtue of that crediting to the shareholder.

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LINEHAN: I think I got all of that. Any other questions from the committee? Senator Flood.

FLOOD: Briefly, Mr. Hallstrom, you referenced the Community Reinvestment Act.

ROBERT J. HALLSTROM: Yes.

FLOOD: That's an FDIC requirement. Could you remind the committee exactly what that requires?

ROBERT J. HALLSTROM: Yeah, the Community Reinvestment Act basically says that the financial institutions are required to reinvest back in the community with regard to the lending activities and their activities in the neighborhood and community and with a, with a primary emphasis on low and moderate-income communities and neighborhoods is what the, what the regulation applies to specifically. Thank you.

LINEHAN: Thank you, sir. And who-- and the-- who-- how is it ensured that that is done? Who is-- not the IRS. There must be some--

ROBERT J. HALLSTROM: Well, the, the federal regulators examine banks for compliance with CRA. We are currently going through some massive changes in CRA that will recognize that banks don't just have physical presences, that they're going, going far afoot with regard to internet banking and things of that nature. But they are examined and there are restrictions on their ability to merge with other institutions if they are not in compliance with the CRA requirements.

LINEHAN: So you talked about tax-exempt bonds. That is munic-- cities.

ROBERT J. HALLSTROM: Cities, local political subdivision bonds that are otherwise--

LINEHAN: Schools, cities--

ROBERT J. HALLSTROM: Yep, exactly.

LINEHAN: --all of them.

ROBERT J. HALLSTROM: And I think the banks make the primary investments on a percentage basis. There are obviously individuals who buy those, but when you have a major school bond issue or a fire department issue or something of that nature, I would imagine you'll

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see the banks come to the front and, and be the major purchasers of those.

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

ROBERT J. HALLSTROM: Thank you.

LINEHAN: Are there other opponents? Good afternoon.

JOHN CEDERBERG: Good afternoon. I'm John Cederberg, J-o-h-n C-e-d-e-r-b-e-r-g. If I were in Europe, I suppose I would describe myself as minister without portfolio because I'm not here representing anybody except myself. I signed in as an opponent primarily because I'm a consistent adherent to the principle that if it isn't broke, don't fix it and deposits tax, in my view, is definitely not broken. This was an enormous contentious issue back in the mid '80s and the deposits tax has served us since 1986 without really any controversy at all. There have been a couple of minor amendments to it. But the taxpayers understand it. It's easy for them to prepare. It's-- all of the information is available to them from their regulatory reports and it's easy for the department to administer, as I understand it. And so now the real reason for coming up was to make a couple of comments that I think need to be made to clarify the concept of changing from the deposits tax to the, to the income tax. The reason we got to the deposits tax originally back in 1985 still exists and that is that in state enabling statutes, there are a few provisions in a few cases. There are provisions that Nebraska commits itself never to tax, except in inheritance or estate tax, the interest on certain-- on subdivisions, certain subdivision bonds, school bonds and such. Schools as one of them. And so after the Supreme Court case, we could not tax under the income tax any federal interest or any Nebraska interest and that-- and our corporate income tax is that way now. It's just not material in the federal interest area because most nonfinancial corporations don't invest in federal securities. But if we go back to the, if we go back to the corporation income tax, just remember we still cannot tax federal interest or Nebraska interest because of these enabling statutes that prevent us from taxing Nebraska issues and therefore, we would be desperate. We're under the federal rules now. We're discriminating against federal interest if we attempt to tax it. The deposits tax kind of gets around that issue because the percentage of, the percentage of book income is a limitation rate. It is not the tax. The tax is on deposits and the taxes then limit it to a percentage of book income and book income includes manifestly federal and Nebraska municipal interest. So just

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remember that that-- that little issue is there. The other thing that I wanted to point out to senators, to you senators, is that the pandemic came along a couple of years ago and there-- and two things happened in the banking industry that have made it very difficult to use current information to predict how this change would work. One is many banks sold off their federal securities at the beginning of the pandemic because they didn't know what was going to happen and they wanted the liquidity. Then the PPP loans came along. Our community banks were extraordinarily helpful to our, to our businesses to get those. We have the best participation per capita than any state in the Union. But the banks booked all of those PPP loans at 1 percent interest until they get forgiven and then the SBA reimburses them. That has really changed the makeup of the, of the statement of condition. It has really changed the character of income and that has all probably going away by the end of 2022. And so, you know, kind of remember we're going into uncharted territory as to what you compare this to.

LINEHAN: All right. Somebody will have a question for you. Are there questions from the committee?

JOHN CEDERBERG: You know, I am the guy in the room who helped write this bill and in my best Senator Sanders impersonation. If anybody wants to talk to me about it, you know how to find me.

LINEHAN: So did the banks get a-- were paid to do the PPP loans too, weren't they?

JOHN CEDERBERG: Yes.

LINEHAN: Was it 3 percent? I remember--

JOHN CEDERBERG: Well, no. It's a sliding scale. The smallest loans, I thought, were 5.

LINEHAN: OK.

JOHN CEDERBERG: I may be-- my memory may not be correct on that-- and a little bit larger loans went down to 3 [percent]. I don't know how many loans we have in Nebraska that are large enough to have been 1.

LINEHAN: OK.

JOHN CEDERBERG: --but the, the, the payment was the inverse to the size of the loan. And basically what Congress did here, Senator, is they wanted these loans out quick.

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LINEHAN: Right.

JOHN CEDERBERG: They didn't want to staff up the federal agency and so they outsourced the administration of that whole program into the private banking industry. And those fees were meant to cover all kinds of things like working in the middle of the night to process loans when the website came up and, you know, learning all the-- you know, having employees understand it and so forth. But that fee income also is all concentrated in the '20 and '21 income statements.

LINEHAN: So on the interest-free-- not interest-free, I'm sorry-- tax--

JOHN CEDERBERG: Tax exempt.

LINEHAN: Tax-exempt interest, so bonds, municipal bonds, school bonds, what percentage of most banks' revenue is that interest free?

JOHN CEDERBERG: It has historically been-- I mean, back when-- I can remember when this bill was passed.

LINEHAN: Banks weren't making any money when this bill was passed.

JOHN CEDERBERG: Well, partly we had-- yeah, we had the recession, OK?

LINEHAN: Yeah.

JOHN CEDERBERG: But back in those days, banks had loan-to-deposit ratios in the 60s, 70 was considered fairly high. And one of the reasons it was so contentious was that by 1984, a lot of banks were paying no income tax at all because their federal interest income exceeded their net income. That has changed since. I, I tried last night to access the FDIC website and see if I could get aggregate call report numbers by state. I'm not smart enough to do it. I'm going to-- I am going to contact the FDIC helpdesk and see if they can tell me how. But my hunch is that at this point, federal interest is probably in the 10, 11, 12 percent of the taxable in-- or of book income and municipal interest is higher than that. The banks got out of their federal securities first because the federal secure-- the federal interest rates were the lowest.

LINEHAN: So you're saying the municipal level would be higher than 10 percent?

JOHN CEDERBERG: Pardon?

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LINEHAN: You're saying the municipal tax free will be higher--

JOHN CEDERBERG: I would expect them to be.

LINEHAN: --higher than 10?

JOHN CEDERBERG: I expect them to be--

LINEHAN: OK.

JOHN CEDERBERG: --because, you know, in this state, we issue so many tax-exempt bonds that are unregistered. You know, the Osceola School District, the Hebron School District, whatever--

LINEHAN: We have some feeling about how many there are.

JOHN CEDERBERG: And those-- the market for those is fairly limited and it's very illiquid. And so, you know, the market is, in many cases, the community banks.

LINEHAN: OK, thank you very much for being here. Are there other questions? Seeing none, thank you very much.

JOHN CEDERBERG: Thank you. I had to at least come bother you once before the hearings were over.

LINEHAN: I'm not surprised to see you here today.

JULIA PLUCKER: Good afternoon.

LINEHAN: Good afternoon.

JULIA PLUCKER: I think I'm the last person on the last day of the week and I'm filling in for Brandon Luetkenhaus so let's get this done. People are dropping like flies. This is an awkward chair. My name is Julia Plucker, J-u-l-i-a P-l-u-c-k-e-r. I'm here as a registered lobbyist for the Nebraska Credit Union League, the trade association for the-- for Nebraska's 58 credit unions, which are not-for-profit member-owned cooperative financial institutions that serve savings and credit needs for over 547,000 Nebraskans. Our association is opposed to LB1225 as introduced because it would raise the tax burden on Nebraska's chart-- state-chartered credit unions. The bill would eliminate the state's financial institutions franchise tax and would subject state-chartered, not-for-profit credit unions to the state corporate income tax. As a way of background, of the 58 credit unions, 11 are chartered with the state of Nebraska. The remaining 47 are

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chartered with the federal government. The Nebraska state-chartered credit unions pay the same state taxes as for-profit state banks, including the state institution franchise tax, sales tax, real and personal property taxes, and payroll taxes. Nebraska is an outlier, being one of the-- only two states in the country that levies the financial institutions tax on credit unions. Furthermore, only one state, Indiana, in the nation subjects credit unions to the state corporate income tax. As not-for-profit member-owned financial institutions, we return our earnings back to the member-owners in the form of dividends, lower fees, lower loan rates, and higher deposit rates. The added financial burden that Nebraska places on state-chartered credit unions is the primary reason why 82 percent of the credit unions have elected the federal charter. Compare that to Nebraska banks who are overwhelmingly chartered, 90-plus percent, with the state because of the beneficial treatment they receive. This bill would further disadvantage state-chartered credit unions from the federally chartered counterparts that do not and would not pay corporate state income tax. We want to point out that there's a couple of unintended consequences to LB1225. The first would be a flight from those state-chartered credit unions I was talking about to federally chartered due to the significant tax increase this bill would pose for the state-chartered institutions. And then the second unintended consequence was covered by Senator Wayne in his opening and actually, we don't oppose that concept he was talking about. According to the FDIC's website, there are 57 banks in Nebraska that have elected Subchapter S designation. And like Nebraska's 58 credit unions, the 57 Subchapter S banks pay no federal corporate income tax. If this bill were passed, those 57 would not pay the state's financial institutions franchise tax because it would be eliminated, nor would they pay the state corporate income tax because Subchapter S corporations are exempt from the state corporate income tax by Nebraska law quoted there. Therefore, the 11 not-for-profit state-chartered credit unions would be subject to state corporate income tax, while the 57 Subchapter S banks would be exempt. I'll-- we respectfully suggest we'd, we'd work on this issue if Senator Wayne intends to bring it up next year, but for those reasons, we're opposed to it as written today.

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

JULIA PLUCKER: Thank you.

LINEHAN: Are there other opponents? Is there anyone who wants to speak in the neutral position? We had as letters for the record, zero

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proponents, one opponent, and zero neutral. Senator Wayne, would you like to close? Senator Wayne is giving us the rest of the afternoon off. He waives closing. Appreciate all of you being here. Thank you very much.