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Revenue Committee
September 29, 2010

[LR496]

The Committee on Revenue met at 1:30 p.m. on Wednesday, September 29, 2010, at the Bloomfield City Community Center, Bloomfield, Nebraska, for the purpose of conducting a public hearing on LR496. Senators present: Abbie Cornett, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Greg Adams; Galen Hadley; and Dennis Utter. Senators absent: LeRoy Loudon, Pete Pirsch, and Tom White. Also present: Senator Chris Langemeier.

SENATOR CORNETT: Good afternoon. My name is Senator Abbie Cornett from Bellevue, Chair of the Revenue Committee. My Vice Chair is Senator Cap Dierks from Ewing. Today the members of the committee that are present are Senator Greg Adams from York, Senator Galen Hadley from Kearney, Senator Dennis Utter from Hastings, and then we are pleased to have Chris Langemeier, Chair of Natural Resources, back with us today. He was a former member of the Revenue Committee and now chairs Natural Resources. The research analysts are Steve Moore and Bill Lock. Committee clerk is Erma James. Before we begin the hearing today, I would please everyone to turn your cell phones to either off or vibrate and your pagers while in the hearing. The sign-in sheets for testifiers are on the table by the door. Please fill those sheets out prior to coming up to testify. When you come up to testify, please hand your sheet to the committee clerk. There is also a clipboard at the table to sign in if you do not wish to testify but would like to indicate your support or opposition to a resolution or your presence at this hearing. The sheets will be introduced in the official record. As you begin your testimony, please state your name and spell both first and last name for the record. With that, I would like to introduce Senator Cap Dierks. Thank you, Cap.

SENATOR DIERKS: Thank you, Senator Cornett, and good afternoon, members of the Revenue Committee. My name is Cap Dierks, C-a-p D-i-e-r-k-s. I'm the senator from the 40th District. First, I'm pleased to allow me to welcome each of you to my district and once again to the city of Bloomfield. Today I would like to testify on LR496, which

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Senator Cornett has introduced. LR496 comes in the wake of the passage of LB1048, the comprehensive wind energy bill introduced by Senator Langemeier of District 23 and enacted earlier this year by the Legislature. LB1048 is as complex a bill as it is confounding for the residents and venerable institutions of Bloomfield, District 40, and Nebraska as a whole. When LB1048 came before the Legislature, I supported it because of its positive effect on wind energy in Nebraska and knowing that there would be time to work on the complex tax issues involved with its passage. This coming legislative session I will introduce a bill that, if passed, will eliminate the current language in LB1048 which grants a credit for property taxes previously paid on a wind energy generation facility commissioned before July 15, 2010. Under LB1048, this credit I'm talking about for property taxes previously paid would reduce the nameplate capacity tax that will have to be paid beginning in 2011 and in future years. This credit will result in affected local governments receiving no nameplate capacity tax from a windfarm for several years. I believe that's not what we intended. I believe that all local governments deserve their fair share in the nameplate capacity tax. I firmly believe that the passage of LB1048 is a big step in leading Nebraska into a new age of wind energy development technology. I look forward to working on improving the tax aspects of the legislation in the upcoming session. Thank you, Senator Cornett. And I'd take any questions. [LR496]

SENATOR CORNETT: Thank you, Senator Dierks. And thank you for letting us hold a hearing again in your district. Could you explain just a little bit further how changing that will affect your district? [LR496]

SENATOR DIERKS: The original wind legislation that we passed required the property tax to be paid in a lump sum of 20 percent a year for five years. This bill, LB1048, changes that to require the payments for...of 5 percent a year for 20 years. Corporate America liked that better and I think most of the citizens liked that better. It stretches out the tax payments and it isn't such a severe tax. The thing that happened was that the first payment at 20 percent for five years was made to Knox County. It turns out that the

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only county and the only school affected by LB1048 was Bloomfield school in Knox County, because it's where the big windfarm is, and it had a negative effect on their budgeting process. And we think we should even that out by allowing them to collect some of the taxes in the next four or five years and not set them off for five years because they got the lump sum payment. [LR496]

SENATOR CORNETT: And you feel that your amendment will address this issue? [LR496]

SENATOR DIERKS: I think so. [LR496]

SENATOR CORNETT: Okay. Thank you. Further questions from the committee? Thank you very much, Senator Dierks. [LR496]

SENATOR DIERKS: You're welcome. [LR496]

SENATOR CORNETT: With that, I will open the hearing. Are there...is there anyone that wishes to come up and testify in regards to the resolution? Sir, you can fill that out afterwards, if you'd like. [LR496]

NORMAN MACKEPRANG: Okay. [LR496]

SENATOR CORNETT: It's not a problem. We're not being as formal. These are a little bit more lax. If anyone doesn't have one filled out yet or just wishes to come up and say anything briefly, you're more than welcome. Speaker. [LR496]

NORMAN MACKEPRANG: Norman Mackeprang. I'm from Bloomfield and a Knox County supervisor, N-o-r-m-a-n M-a-c-k-e-p-r-a-n-g. Well, when LB1048 come into effect, our windfarm has already been in production for over a year, and then they...the bill, I understand, didn't take effect till the middle of July, which would have been we

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were in production a year and a half, and it really made a hardship on our school and our county, that we planned on this money and they changed in the middle of the stream what they were going to do. I don't see how they could retroactive it back a year and a half, how the Legislature could do that. And we called down there to many senators; really never received any response from anybody who...I know we talked to Senator Langemeier's office, Senator Dierks's office, I don't know about the rest, but never did have anybody really contact us back of what our problem was or why we were against it. And I'm just wondering if this goes through now what's to say in another few years they ain't going to take tax completely away from the farms, from the wind energy farms? Being as they could change once already, what's to say they can't change again? [LR496]

SENATOR CORNETT: Senator Adams. [LR496]

SENATOR ADAMS: What specifically, from a county perspective, can you tell me what specifically did you do or what plans had you made in anticipation of the revenue prior to the passage of LB1048? [LR496]

NORMAN MACKEPFRANG: Probably doing roads, doing more with the roads, the roads out there. The wind people come in and kind of fix roads back up but, I mean, they're really breaking up and it's still from the windfarm, so we had to...we're going in, had to refix roads was the biggest thing that we were probably going to do with the money. [LR496]

SENATOR ADAMS: Okay. [LR496]

NORMAN MACKEPFRANG: And the way I understand it now, we got this payment our first year and now we won't get another payment for seven years with this nameplate tax because this is all a credit. The money they gave us was a credit, so by the time that credit gets used up it will be seven years before we get...see any money again. [LR496]

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SENATOR CORNETT: Senator Langemeier. [LR496]

SENATOR LANGEMEIER: First of all, thank you for testifying. And I want to commend the county board for their decisions they made in light of this windfall coming in, because you actually lowered your levy and I want to commend you for that. [LR496]

NORMAN MACKEPRANG: Yes, we did. [LR496]

SENATOR LANGEMEIER: You gave some property tax relief, which some others didn't do. And I brought all the school stuff, I should have brought yours. I didn't actually bring your portion of the wind money, but how much did you get? You got first half, you got 2009's levy, you got it in 2010. So seven years... [LR496]

NORMAN MACKEPRANG: Right. I'm thinking we got approximately \$300,000. [LR496]

SENATOR LANGEMEIER: So you got \$300,000 versus the nameplate capacity tax would have given you \$300,000 over seven years. [LR496]

NORMAN MACKEPRANG: Right. [LR496]

SENATOR LANGEMEIER: So you've chosen, and this is my own...to kind of get an idea what you've done with it, I guess when we did that we were hoping that you'd use that \$300,000, some each year for the next seven years, and not just spend it all in the first year. What is your...what are you going to do with the \$300,000 that you just got? [LR496]

NORMAN MACKEPRANG: Well, it will probably still be used for roads like we had planned, but in the meantime we just set our levy the other day and we had to go back up. [LR496]

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SENATOR LANGEMEIER: Okay. Yeah, and I understand that and I, again, I appreciate you actually lowering your levy because others didn't, as I said before. I guess some of the big concerns we had...and you guys are the example because you are the first windfarm, so we want to commend you for that and we hope to see more around here with the passage of LB1048. After six years, the way the old system was, you weren't getting any more money because it's personal property and it's depleted out, actually after five years. The fourth year will be your last payment... [LR496]

NORMAN MACKEPRANG: Right. [LR496]

SENATOR LANGEMEIER: ...because you didn't get 20 percent this year. You got 67 percent of the amount of money this year, and next year you get 40-some, and then 30, and 0. In seven years, you're going to start to receive that money again to the tune of about, what, \$60,000 a year indefinitely. [LR496]

NORMAN MACKEPRANG: Something like that. Right. [LR496]

SENATOR LANGEMEIER: And so if you use this \$30,000 wisely over the next seven years, then you're going to get payments indefinitely... [LR496]

NORMAN MACKEPRANG: Right. That's what we understand. [LR496]

SENATOR LANGEMEIER: ...as long as the project is there. Okay. [LR496]

NORMAN MACKEPRANG: As long as you don't change it again. [LR496]

SENATOR LANGEMEIER: I hope they don't change it. [LR496]

NORMAN MACKEPRANG: I do, too, but... [LR496]

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SENATOR LANGEMEIER: I think we made a monumental step here. I don't think it will need a lot of addressing. Right. [LR496]

NORMAN MACKEPRANG: But as I read through the bill or the number (3), it's whether taxation of wind energy property should be centrally assessed, locally assessed, or both. [LR496]

SENATOR LANGEMEIER: Oh yeah. Yeah, I don't have anything to do with this. [LR496]

NORMAN MACKEPRANG: Oh. Well, I... (Laugh) [LR496]

SENATOR CORNETT: No. [LR496]

SENATOR LANGEMEIER: This is just the discussion item to make sure you hit...what you'll find in these legislative hearings is they want to make sure they throw the whole kitchen sink in there so you know what they're going to talk about,... [LR496]

NORMAN MACKEPRANG: Yeah. [LR496]

SENATOR LANGEMEIER: ...not necessarily do but talk about, so... [LR496]

NORMAN MACKEPRANG: That's what worries me, that they're going to take it all out instead of add more. [LR496]

SENATOR LANGEMEIER: That's why you always need 25 votes to change things, don't we? [LR496]

NORMAN MACKEPRANG: Yes, sir. [LR496]

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SENATOR LANGEMEIER: I really appreciate you coming in. Thank you very much.
[LR496]

SENATOR CORNETT: I was going to say what we did with this was take somewhat of a shotgun approach to covering all of the issues that might arise at the hearing, stemmed off this. So, yes, you're perfectly within the scope to discuss what could happen in the future and that's why this is here, so you can discuss your concerns. And I...they are valid concerns. [LR496]

NORMAN MACKEPRANG: Yes. Just if they'd have come in with this when the first come in, I don't know, I think they would still have been welcome but I don't think as much as what they were at first. Because I know at one time, and I'm not on the school board here, but they were talking about building a new school, and if they would have started that they would have been in a world of hurt because the money would have quit after one year and they wouldn't even have knew about it till, what was it, April of this year. I mean they could have started already in '09 if they would have started building or did... [LR496]

SENATOR CORNETT: But they would have gotten the money up-front, correct?
[LR496]

NORMAN MACKEPRANG: Only the one year. [LR496]

SENATOR CORNETT: Only the one year. [LR496]

NORMAN MACKEPRANG: Only the one year. If they were planning on the five years of getting that money to do any of the building or whatever they were going to do, it wouldn't have been a pretty picture for them because they would have been... [LR496]

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SENATOR CORNETT: Halfway through a building. [LR496]

NORMAN MACKEPRANG: ...half the way through or not even and the money would have quit coming. I don't know what they'd have done then,... [LR496]

SENATOR CORNETT: Okay. Further questions? Oh. [LR496]

NORMAN MACKEPRANG: ...which we didn't have that problem at the county. [LR496]

SENATOR CORNETT: I didn't mean to interrupt you. Sorry. [LR496]

NORMAN MACKEPRANG: No, that's fine. [LR496]

SENATOR CORNETT: Over all, do you feel that wind energy is beneficial, though, for your...for your district? [LR496]

NORMAN MACKEPRANG: Well, I think it is, probably more so for the farmer that has them on his land for that payment more so than when this new taxation starts in. I don't know that that's going to be such a big windfall. I don't think we'll be able to lower taxes because of it. [LR496]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LR496]

NORMAN MACKEPRANG: Thank you. [LR496]

SENATOR CORNETT: Next testifier, come on up. Don't be shy everyone. This is...we're a very friendly group. [LR496]

RYAN BLOOMQUIST: I just have a...Ryan Bloomquist, Bloomfield. [LR496]

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SENATOR CORNETT: It's a pleasure. [LR496]

RYAN BLOOMQUIST: I have a... [LR496]

SENATOR CORNETT: Could you spell your name for the record, please? [LR496]

RYAN BLOOMQUIST: Pardon? [LR496]

SENATOR CORNETT: Could you spell your name for the record? [LR496]

RYAN BLOOMQUIST: B-l-o-o-m-q-u-i-s-t. [LR496]

SENATOR CORNETT: Thank you. [LR496]

RYAN BLOOMQUIST: I have a question for our senator and for the board. Why couldn't we grandfather in the existing contract that we started out with rather than just dropping this off? It really affected our school because we ended up...think this project was \$121 million or something in that vicinity. Well, that made us a rich school district and so we lost our state aid--\$300,000--and some. Now I just want to know why we can't grandfather in the existing one so that the school district, the county, Peoria township, all the townships made up their budget according to what was going to be coming in, in the next five years supposedly. This whole thing was sold on that premise that we would get X amount of dollars in the next five years. It was sold to these farmers out here. That's why a lot of them put up that, let them put it up on their land and so on, so forth. I just wonder why you can't grandfather in the existing contract. Just trying to...just like any other business, you enter into a contract and then halfway through it you say, gosh, I made a mistake, I better get out of this thing, and I don't think that's right. I couldn't do it if I entered into a contract so I don't know why the Legislature can do that, I mean start changing things in the middle of the stream, but it really cost, as Mr. Mackeprang was

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telling me, we had engaged an architect and such for our school, remodeling or redoing our school up here, and thank God we didn't get any further than we did or we'd be in deep doo-doo because we wouldn't have the funds to do it with. But I'm saying we lost the \$300,000. Granted, we got some money from this first round, but \$300,000 of that was from the state that we lost, so our net gain isn't going to be very much in comparison to what it was sold to us on. The whole project was sold to us on that premise, even the people out here in the country that put up...had it put up on their land. I'm not sure that this thing would have went through if we'd had known what was going to happen. I think as far as I know, they're still going to get their money, their rent money, but outside of destroying our roads and everything else. And far as occupation and such, we got, as far as Bloomfield is concerned, they hired three people out of Bloomfield to work this thing. It was...come out that it was going to be a big influence on our employment. They brought in all their people. Some people, they bought some cement here but other than that, just in and out. In six months, they were gone. And maybe our restaurant sold a couple hamburgers in the meantime, but, other than that, the financial advantage of it wasn't that great. So these people that are getting these new ones coming in at Broken Bow and down at Petersburg, I hope they understand that it isn't as great as they anticipated. But can...why can't this be grandfathered in, the existing contract? [LR496]

SENATOR CORNETT: Senator Langemeier, do you...and the only reason I'm deferring this to Senator Langemeier is I have dealt with the tax issue on this but Senator Langemeier has much more experience in the overall wind energy concept so... [LR496]

RYAN BLOOMQUIST: Well, I don't care who. I just want an answer. [LR496]

SENATOR LANGEMEIER: I appreciate your testimony very much and your willingness to come forward. As I look at your school information, though, your assessed value, excluding the windfarm, if you'd have never had the windfarm, your land values went up enough that you lost state aid anyway. So the windfarm, whether its existence or

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nonexistence, you lost state aid, which is unfortunate for your district regardless of anything. But that \$300,000 was going to be gone anyway. But I appreciate your comments and I'm sure... [LR496]

RYAN BLOOMQUIST: Do you have a copy of that? [LR496]

SENATOR LANGEMEIER: We can get it to you. If you give me your name and stuff, we can get it... [LR496]

RYAN BLOOMQUIST: That our valuation went up that much that our state aid, we would have lost it? How about the other districts around our state? Our land didn't appreciate any more than anybody else's. [LR496]

SENATOR LANGEMEIER: I don't have the other school districts with me. [LR496]

RYAN BLOOMQUIST: Yeah, well, that's what I thought. [LR496]

SENATOR LANGEMEIER: I was just looking at Bloomfield because that's what we're talking about today. But I appreciate that and when we're all done give me your contact information and we'll send it to you. [LR496]

SENATOR CORNETT: And I will...I will...we have been working, my staff, with Senator Dierks in regards to an amendment because he is very aware of how it has affected his district and took a broader approach to the overall good of the state when it came to wind energy with the passage of the bill. But we will be looking at some of the issues surrounding that this year in committee. With that, I believe Senator Dierks or Senator Adams...Senator Dierks, you go ahead. [LR496]

SENATOR DIERKS: I just wanted to remind people what the LB1048 bill did as far as changing the tax structure. It places a tax based on the nameplate that goes on each

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wind tower. That means that the tax is structured around the ability of that wind tower to produce electricity, not based on the property...the valuation of the land that it's on. So we've changed it from valuation based on property value to valuation based on production capacity. And I think that's a real decided change for us in this state. I'd like to do that with all of our property taxes but I think that's a step in the right direction. That's one of the reasons I thought that the bill was something we had to have. Thank you. [LR496]

RYAN BLOOMQUIST: Well, I can understand that, that they now understand that, wait a minute, this thing will only produce so much or I can shut it off if a consumer or Nebraska Public Power don't want them. But didn't they know this ahead of time? [LR496]

SENATOR CORNETT: Didn't they know what, sir? [LR496]

RYAN BLOOMQUIST: That you...that why didn't they put this in to start with, that it was based on production? [LR496]

SENATOR DIERKS: This was a new concept. [LR496]

RYAN BLOOMQUIST: Well, I think...yeah. [LR496]

SENATOR DIERKS: When we did it before, see, this was part of the reason for selling the bill to us on LB1048 in the first place. That was one of the main reasons that it was accepted. [LR496]

RYAN BLOOMQUIST: What's LB1048 going to do for us? [LR496]

SENATOR DIERKS: It's going to change the way that the taxes are structured and how they're going to be paid out, the property taxes... [LR496]

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RYAN BLOOMQUIST: How is that going to benefit us? [LR496]

SENATOR DIERKS: ...among other things, yeah. Well, it will affect you, just the fact that you are a recipient of those taxes. [LR496]

RYAN BLOOMQUIST: But we're not going to get anything for the next six or seven years,... [LR496]

SENATOR DIERKS: Well, this is the thing... [LR496]

RYAN BLOOMQUIST: ...but your gentleman said that after ten years we were going to get some money? [LR496]

SENATOR DIERKS: This is the thing I'm trying to do with the amendment I just introduced, is to change that for you. [LR496]

SENATOR CORNETT: Senator Dierks has an amendment that will address some of those concerns and that was in his opening. [LR496]

RYAN BLOOMQUIST: Well, I'd like to see an amendment put in to grandfather the existing contract. [LR496]

SENATOR DIERKS: Well, I'm not sure you can do that... [LR496]

RYAN BLOOMQUIST: Well,... [LR496]

SENATOR DIERKS: ...but you can have something to do somewhat the same effect. [LR496]

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SENATOR CORNETT: I was going to say a contract, if the law changes, isn't in place any longer, and we changed the law in regards to how we tax. And Senator Dierks was broad enough in his thinking that he understood this was a better direction to go and is working on a fix for his district. Senator Adams, I believe you had something to say? [LR496]

SENATOR ADAMS: No, I didn't. I've got some school numbers here, too, but that's all right. We can talk about them afterwards. [LR496]

SENATOR CORNETT: We can go over those numbers with you individually, if you would like, later. [LR496]

RYAN BLOOMQUIST: Well, but you can't grandfather it in. [LR496]

SENATOR CORNETT: We would not change the law back to allow one district. That would not be a good policy. We can find a remedy, we are working on a remedy for you. [LR496]

RYAN BLOOMQUIST: For us or for everybody? [LR496]

SENATOR CORNETT: We are working on a remedy inside of LB1048. [LR496]

RYAN BLOOMQUIST: Okay. Thank you. [LR496]

SENATOR CORNETT: You're welcome. Next testifier. Come up. [LR496]

NORMAN MACKEPRANG: I just... [LR496]

SENATOR CORNETT: Like I said, we're more than welcome to hear any input. [LR496]

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NORMAN MACKEPRANG: I just wanted to clarify. [LR496]

SENATOR CORNETT: State your name again for the record. I apologize. [LR496]

NORMAN MACKEPRANG: Norman Mackeprang. You want me to spell it too? N-o-r-m-a-n M-a-c-k-e-p-r-a-n-g. All the entities in Knox County, Peoria township, Bloomfield school, it was all not quite \$2 million all entities were going to get. The county was just going to get the \$300,000. That would have been our share. [LR496]

SENATOR CORNETT: Right. [LR496]

NORMAN MACKEPRANG: I just wanted to clarify so... [LR496]

SENATOR CORNETT: Okay. Okay, this is your opportunity to speak in regards to LB1048 or anything to do with wind energy. Would anyone else like to testify? [LR496]

GENE SCHAAF: I am Gene Schaaf, S-c-h-a-a-f, and I'm the Antelope County Assessor. And I don't know if the questions that I have are in tune with this, but I did get a question from a company that was building...I think it was one that was building it in Boone County, and the question was, if that property sells that has a wind tower on it and that raises the value, that should really raise the value of that parcel of land, so what am I, as the assessor, going to do with that? And I guess I said, well, I had never...I had never thought of that. And he said, well, he had a farmer that had asked him, is that going to raise everyone else's property around there, is that going to raise the value of it? Which I'm assuming with only 27 or 28, it probably will never sell. I would say probably there won't be many sales, that it probably wouldn't affect it a lot, but it was just something that they had brought up. And as an assessor, I wondered why you took away our ability to locally assess that acre of ground. And here's my comparison, and maybe I'm comparing apples to oranges. I have...I own a quarter that's in CRP and I get about \$5,500 annually for that payment, which is about \$1,200 in taxes that I pay on that

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quarter. What he told me is the guys down there are going to get like \$7,000 to \$8,000 income off of that one acre and they're not going to have to pay any tax, basically, on that for that income. Now it doesn't seem, when you take it from an income standpoint, something seems to not be right and I just... [LR496]

SENATOR CORNETT: Well, they will be paying the tax on the production, but I see Senator Langemeier is... [LR496]

SENATOR LANGEMEIER: I'm getting dinged here. In LB1048, the tax that was changed was the personal property. [LR496]

GENE SCHAAF: Right. [LR496]

SENATOR LANGEMEIER: That's the pole, the blades, and the turbine alone. [LR496]

GENE SCHAAF: Yes. [LR496]

SENATOR LANGEMEIER: There was always tax on the ground and the concrete in the ground. LB1048 did not change that. You're still going to tax the ground and the concrete as real estate tax, just like it always was. All we've done is take that, that was personal property, which is the pole, the turbine, and the blades, and created a nameplate capacity. So there's no exemption on one acre. [LR496]

GENE SCHAAF: But can we set a value that's different than the acre beside it? [LR496]

SENATOR LANGEMEIER: You bet your can. [LR496]

GENE SCHAAF: Is that how that is, Monica? [LR496]

SENATOR LANGEMEIER: That's your assessment role. [LR496]

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MONICA McMANIGAL: No, that Property Tax is telling us (inaudible). [LR496]

GENE SCHAAF: Okay. We're...yeah, that's...we're not... [LR496]

SENATOR LANGEMEIER: Yeah. [LR496]

GENE SCHAAF: ...we're not getting that. [LR496]

SENATOR LANGEMEIER: We can have that discussion with them. [LR496]

GENE SCHAAF: They are telling us that we have that acre, that is a nonissue of that acre. [LR496]

SENATOR LANGEMEIER: Yeah, we can...I appreciate you bringing that up but we'll have that discussion. But there's no intent to have that one acre exempted at all. [LR496]

SENATOR CORNETT: I was going to say that was not something I've heard before; that I thought that the acre...that the land it sat on still had...was property taxed. It was just separating out what was attached to it. [LR496]

SENATOR LANGEMEIER: Right, that that was personal property is now nameplate capacity. [LR496]

GENE SCHAAF: So they would pay the nameplate on the personal property part of it and that one acre, that supposedly that tower sits on, can be valued at whatever. [LR496]

SENATOR LANGEMEIER: That's still real estate and always was real estate. [LR496]

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GENE SCHAAF: Okay. [LR496]

SENATOR LANGEMEIER: We just changed personal property, in that, that was personal property, to a nameplate capacity. [LR496]

GENE SCHAAF: Okay. I guess we were led to believe that that was... [LR496]

SENATOR LANGEMEIER: And if that needs to be cleared up, more than happy to do that. [LR496]

GENE SCHAAF: Okay. [LR496]

SENATOR LANGEMEIER: But... [LR496]

GENE SCHAAF: That would be good then. [LR496]

SENATOR LANGEMEIER: Appreciate the info. [LR496]

GENE SCHAAF: Yeah. Okay. [LR496]

SENATOR LANGEMEIER: Little different than what we're talking about right now, but I'm glad you brought it up. [LR496]

GENE SCHAAF: (Laugh) Yeah. Yeah. And he brought that up and I'd never thought about, you know, what happens if that quarter sells with one of those on there. You know, I would assume it would be worth more than the quarter next to it, but I'm not sure that... [LR496]

SENATOR CORNETT: And that's the purpose of this hearing, is to bring up any issues

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surrounding this that have come up over the course of the year with its implementation. [LR496]

GENE SCHAAF: Okay. Okay. And that might be something that maybe needs to be addressed, that that would...we wouldn't have to use that...if one of those quarters would sell or acre, we would not have to use that in the sales file. [LR496]

SENATOR CORNETT: In regards to valuation. [LR496]

GENE SCHAAF: Right. [LR496]

SENATOR CORNETT: So it wouldn't affect the acres around it. [LR496]

GENE SCHAAF: Right, or the landowner next to it or across the road that didn't have a... [LR496]

SENATOR CORNETT: Correct. It'd be almost like an outlier. [LR496]

GENE SCHAAF: Yes. [LR496]

SENATOR CORNETT: Okay. [LR496]

GENE SCHAAF: And, you know, if one would sell, it would be an outlier. But if two or three would happen to sell and that,... [LR496]

SENATOR CORNETT: Then it could affect valuation... [LR496]

GENE SCHAAF: ...there's a possibility, yes. [LR496]

SENATOR CORNETT: ...of land that doesn't have one on it. [LR496]

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GENE SCHAAF: Yes. [LR496]

SENATOR CORNETT: Okay. [LR496]

GENE SCHAAF: Okay. [LR496]

SENATOR CORNETT: Cap. Any other questions from the committee? [LR496]

GENE SCHAAF: Thank you. [LR496]

SENATOR CORNETT: Thank you. Okay, please come up. I saw that you were shaking your head in regards to the interpretation. Please state your name and spell it for the record, and please let the committee know the feedback you've been getting from the Property Tax department...or Administrator. [LR496]

MONICA McMANIGAL: Okay. Okay. Monica McManigal, M-o-n-i-c-a M-c-M-a-n-i-g-a-l, and I'm the Knox County Assessor and, yes, what Gene brings up...and I feel after this last summer, yeah, that we're an expert on wind towers with assessments. We've gone from one end of the realm to the other. Yes, the bottom line is that once the LB1048 passed we were told then that with the nameplate capacity we can no longer value that site where that tower sits. Now last year we had valued that one acre separately at a higher value that we determined because we felt that was the site, just like we value any other site--barn buildings, house sites, building, you know, commercial buildings. But the bottom line is, is that Property Tax made us remove that value and we can only value it just as if the acre is sitting right beside it. If that is ag land, crop at \$1,200, then that's what that one-acre site has to be, is at \$1,200. [LR496]

SENATOR CORNETT: Okay. I was misunderstanding. I thought he was saying that there was no tax on that...or the interpretation, but you... [LR496]

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MONICA McMANIGAL: Yeah. Yeah. [LR496]

SENATOR CORNETT: ...they're saying that you have to value the land as if there was no personal property attached to it. [LR496]

MONICA McMANIGAL: Right. And that's...in simple terms, we were told to ignore the tower. [LR496]

SENATOR CORNETT: Rather than...rather than income generating. [LR496]

MONICA McMANIGAL: Yeah. [LR496]

SENATOR CORNETT: Okay. [LR496]

MONICA McMANIGAL: So...and that was a big chain of problem for us because we still feel, our interpretation of LB1048...and our county attorney was involved with that and we had a lot of discussions with Property Tax and they came to Knox County and met with our county board. But their interpretation was, yeah, that we cannot value it any higher, it has to be valued like the land next-door. But our interpretation, of course, was that we should have a higher value on that site. It's... [LR496]

SENATOR CORNETT: And this is just from the other gentleman's comments. If you do have a higher value on that one site then, but it will throw off the valuation on the land surrounding it. Correct? [LR496]

MONICA McMANIGAL: Well, we would put it... [LR496]

SENATOR CORNETT: The sale...and I'm just...I'm just trying to work this through... [LR496]

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MONICA McMANIGAL: Right. [LR496]

SENATOR CORNETT: ...because that...you want...he mentioned making the sale of those pieces of land then separate so they didn't create a false value for the land surrounding it. Is that what the Property Tax Administrator is trying to do by saying it has to be valued like the tower wasn't there so you don't have the other negative consequences? [LR496]

MONICA McMANIGAL: Well, I think if that happened and, yeah, we haven't had any sales yet of any land around a tower, I mean we would...to me, yeah, that's a little different category. I mean you'd have to have more than the one sale and if you had several sales that showed that market is that high where that tower sits, I mean we would...you know, we would use those. They wouldn't be valued in with ag land, I guess is the bottom. [LR496]

SENATOR CORNETT: Okay. [LR496]

MONICA McMANIGAL: You know, they're a little different category because of that commercial site that's on there. But, yeah, we still felt that that one acre should have a site value, a commercial site value of that tower, and that's what we're told we could not do. [LR496]

SENATOR CORNETT: Okay. [LR496]

MONICA McMANIGAL: So... [LR496]

SENATOR CORNETT: Senator Langemeier. [LR496]

SENATOR LANGEMEIER: Just for clarification, and I appreciate everybody's testimony

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because we're learning. That's what this is about. But what I got from your earlier testimony is that you thought the one acre should be at zero--let's say it's in a farm, \$1,200 per acre farm ground--and that one site was at zero. You're saying you're keeping it at \$1,200... [LR496]

MONICA McMANIGAL: Right. [LR496]

SENATOR LANGEMEIER: ...but you think it should be a little more because it's obviously got some different income potential,... [LR496]

MONICA McMANIGAL: Right, exactly. [LR496]

SENATOR LANGEMEIER: ...which might in the market, we haven't seen this yet, but might in the market drive it to a higher value. [LR496]

MONICA McMANIGAL: Well, yeah. We initially had a higher site value on that one acre because of the commercial properties of that tower there... [LR496]

SENATOR LANGEMEIER: Sure. [LR496]

MONICA McMANIGAL: ...and then that's what we had to take away this year per Property Tax. [LR496]

SENATOR CORNETT: I was going to say, and I had interpreted what I'd heard exactly like Chris had, that we weren't...you weren't allowed to. [LR496]

MONICA McMANIGAL: Okay. [LR496]

SENATOR CORNETT: But, no, I... [LR496]

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SENATOR LANGEMEIER: But we'll look into that... [LR496]

SENATOR CORNETT: Yes. [LR496]

SENATOR LANGEMEIER: ...because we want a clarification. We appreciate the info. [LR496]

SENATOR CORNETT: It is a very valid point. And again, I'd like to stress, Chris, Senator Langemeier has done a tremendous amount of work over the last couple of years to bring encompassing language to move the state forward in regards to wind energy and it will take a learning process for all of us. But I want to thank you for your testimony. [LR496]

MONICA McMANIGAL: Yeah. And that's kind of from the very beginning we've been called the guinea pig of this because we are the one and only, and we've learned a lot this last year. (Laugh) [LR496]

SENATOR CORNETT: Senator Utter. [LR496]

SENATOR UTTER: Since you folks up here are the very first in the state, just out of curiosity, what was that one acre as a commercial site? How did that differ the way you were valuing it in terms of on a per-acre basis? Can you tell me that? [LR496]

MONICA McMANIGAL: Okay. Yeah. Well, I can give you my exact number if that's... [LR496]

SENATOR UTTER: That would be great. That's what I've got in mind. [LR496]

MONICA McMANIGAL: In 2009 I had valued it a \$12,500 site. [LR496]

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SENATOR UTTER: The acre. One acre? [LR496]

MONICA McMANIGAL: For one acre where that tower sat. [LR496]

SENATOR UTTER: Okay. [LR496]

MONICA McMANIGAL: And our local farmers had the agreement that the wind tower company was paying for that tax, so we billed it directly to the wind tower. That was their agreement in their lease. [LR496]

SENATOR UTTER: The surrounding land would have been what? Was it at \$1,250? [LR496]

MONICA McMANIGAL: At...yeah, we'll say \$1,200 just as an example, yeah. [LR496]

SENATOR UTTER: \$1,200? [LR496]

MONICA McMANIGAL: So we put the \$12,500 on that one-acre site... [LR496]

SENATOR UTTER: Okay. [LR496]

MONICA McMANIGAL: ...and then that's what, of course, disappeared this year, so... [LR496]

SENATOR CORNETT: And... [LR496]

SENATOR UTTER: Thank you. [LR496]

SENATOR CORNETT: Oh, I'm sorry. Go ahead, Senator Langemeier. [LR496]

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SENATOR LANGEMEIER: Can I ask how you came up with that? [LR496]

SENATOR CORNETT: That's what I was...(laugh) [LR496]

MONICA McMANIGAL: It wasn't easy. We...I did a lot of research. I made a lot of phone calls because I never did get a real copy of a lease. They say it's tons and tons of pages, but I had asked the company for an original lease but they still never did meet our demand to read it. But different conversations with farmers, called the wind company many, many times, called a lot of different people and they would...they kind of gave me a range, so I chose that number, feeling that was real confident approximately what they would have been getting every year for their lease, so... [LR496]

SENATOR CORNETT: So you based that on an average of what you felt that the farmers were receiving for that one acre they leased? [LR496]

MONICA McMANIGAL: Yeah, pretty much. It's just another decision that, as assessors, you have to make many times, so... [LR496]

SENATOR LANGEMEIER: How comfortable would you be if they took you to TERC on that? [LR496]

MONICA McMANIGAL: Well, I...yeah, I would stand behind it. [LR496]

SENATOR LANGEMEIER: Okay. [LR496]

MONICA McMANIGAL: But, of course, it ended up... [LR496]

SENATOR LANGEMEIER: I'm not critical. I'm learning. [LR496]

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MONICA McMANIGAL: ...they didn't pay that tax though. We had to do tax corrections this year because of LB1048 and a long story in between there. But, yeah, we did have to remove those taxes anyway. [LR496]

SENATOR LANGEMEIER: So you didn't put the \$12,000 on for the 2009 year. [LR496]

MONICA McMANIGAL: We did, but we had to remove it. [LR496]

SENATOR CORNETT: Did you have to refund it? [LR496]

MONICA McMANIGAL: They had never paid the tax, but our tax book still had to be corrected to, you know, to reflect that. [LR496]

SENATOR LANGEMEIER: But the law went into effect in June of 2010. Should not have exempted that of 2009. [LR496]

MONICA McMANIGAL: See, that's been our problem with... [LR496]

SENATOR LANGEMEIER: Shouldn't have gone back. [LR496]

MONICA McMANIGAL: ...that's the board's problem that we've had this summer that we tried to deal between... [LR496]

SENATOR CORNETT: So...but... [LR496]

SENATOR LANGEMEIER: We'll look into that too. You shouldn't have had to gone back. [LR496]

SENATOR CORNETT: No, you should have...they should have paid that for 2009. [LR496]

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MONICA McMANIGAL: They made it...Property Tax agreed that they shouldn't pay it, so it's been a long...a lot of back and forth this summer. [LR496]

SENATOR CORNETT: Really? [LR496]

SENATOR LANGEMEIER: Lincoln Property Assessment told you they shouldn't have to pay it? [LR496]

SENATOR CORNETT: Who did you speak to? [LR496]

SENATOR UTTER: This is the Department of Revenue Property Tax people? [LR496]

MONICA McMANIGAL: Yes. Yeah, Property Tax Administrator and the legal department. [LR496]

SENATOR UTTER: Yeah. Okay. [LR496]

SENATOR LANGEMEIER: Going to make more phone calls. I appreciate that. [LR496]

MONICA McMANIGAL: Okay. (Laugh) [LR496]

SENATOR CORNETT: So I...just because I've already...I already apparently wasn't listening close enough once, I want to make sure that I have the clarification on this. The Property Tax Administrator said that you did not...could not collect the taxes that were assessed for 2009 based on the valuation that you had placed on that land, even though the land came into effect...enactment date... [LR496]

MONICA McMANIGAL: Uh-huh. [LR496]

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SENATOR CORNETT: ...was after when those taxes should have been paid. [LR496]

MONICA McMANIGAL: That's correct. They told us that was their interpretation of the law and... [LR496]

SENATOR CORNETT: Now were they ever collected or did the companies just refuse to collect them based...or pay them based on the enactment of the law? [LR496]

MONICA McMANIGAL: Yeah, uh-huh, they refused to pay them. Yeah, that's the bottom line. They refused to pay but then Property Tax agreed with them that they didn't have to. [LR496]

SENATOR CORNETT: Okay. [LR496]

MONICA McMANIGAL: So that's why we've got a lot of dissension in our county. [LR496]

SENATOR CORNETT: How much value...well... [LR496]

SENATOR LANGEMEIER: That's a problem. We'll work on that. [LR496]

SENATOR CORNETT: I was going to say, when you have a problem like that, maybe you should come to one of us because I know that was not the intention of the bill. [LR496]

MONICA McMANIGAL: Yeah. Okay. Okay. [LR496]

SENATOR CORNETT: How much valuation did you lose on that? [LR496]

MONICA McMANIGAL: Well, last year the central assessment was \$120 million for the

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windfarm, approximately. [LR496]

SENATOR CORNETT: Uh-huh. [LR496]

MONICA McMANIGAL: There's...I don't have the exact number with me but... [LR496]

SENATOR CORNETT: What were the taxes that were supposed to be paid? [LR496]

MONICA McMANIGAL: Well, they paid on the central assessment, which was almost \$2 million. [LR496]

SENATOR CORNETT: Okay. [LR496]

MONICA McMANIGAL: They did pay that, but they would...the part we're talking about is the locally assessment of the site. [LR496]

SENATOR CORNETT: Right. So they paid this. [LR496]

MONICA McMANIGAL: They did pay the central assessment of almost the \$2 million, but what we were doing locally was that one-acre site at that \$12,500. [LR496]

SENATOR LANGEMEIER: So \$12,000 times what do you have,... [LR496]

SENATOR CORNETT: Yeah, that's what... [LR496]

SENATOR LANGEMEIER: ...66 towers? [LR496]

MONICA McMANIGAL: No, 27. [LR496]

SENATOR LANGEMEIER: Oh, excuse me, 27. You're (inaudible). [LR496]

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MONICA McMANIGAL: Twenty-seven towers. [LR496]

SENATOR CORNETT: So what was the amount that wasn't paid? I don't have a calculator. [LR496]

MONICA McMANIGAL: I think it was somewhere around \$7,000 that they didn't pay then. [LR496]

SENATOR CORNETT: Okay. What was the...what was the rationale for paying the \$2 million but not the \$7,000? [LR496]

MONICA McMANIGAL: I probably can't answer that because we...I don't want to say argue but we had a conversation. [LR496]

SENATOR CORNETT: I just...I'm not...I haven't spoken to the other side here... [LR496]

MONICA McMANIGAL: Yeah. [LR496]

SENATOR CORNETT: ...but I'm losing the rationale of saying you have to pay one or you pay the other but you don't pay... [LR496]

MONICA McMANIGAL: Well, yeah. Well, they felt it shouldn't have had a higher value than...I don't know. [LR496]

SENATOR CORNETT: Okay. That's fair. [LR496]

MONICA McMANIGAL: We have all those questions ourselves... [LR496]

SENATOR CORNETT: That's fair. [LR496]

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MONICA McMANIGAL: ...and we didn't feel they were answered either, so... [LR496]

SENATOR CORNETT: Other questions from the committee? [LR496]

SENATOR LANGEMEIER: Thank you. [LR496]

MONICA McMANIGAL: Thank you. [LR496]

SENATOR CORNETT: Next testifier. [LR496]

GENE SCHAAF: Could I clarify my...something (inaudible)? [LR496]

SENATOR CORNETT: You know, like I said, we're informal today. Come on up. Just restate your name, please. And again I'd like to reiterate we drove up here to talk to you. If you have anything to say, we're more than happy to hear it. [LR496]

GENE SCHAAF: Gene Schaaf, S-c-h-a-a-f. I didn't mean that they didn't pay a tax. They were lucky or Monica was cheap. I thought it should have been at \$30,000 or \$40,000 for that acre because...and I didn't bring my figures but if you have a grass acre and it take...you can run a cow on five acres, that's \$30 an acre income. So the acre beside it might give you \$30 and then you're getting \$10,000 or \$12,000 for the acre that that sits on. So if you want to figure those numbers out, I don't think \$30,000 or \$40,000 an acre would be too high if you do it on a cap rate system. Yes. [LR496]

SENATOR CORNETT: Senator Langemeier. [LR496]

SENATOR LANGEMEIER: What, you know, we assess things on market value. We don't cap rates in Nebraska. [LR496]

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GENE SCHAAF: Right. [LR496]

SENATOR LANGEMEIER: Why would we do this one acre on a cap rate when we do nothing else? [LR496]

GENE SCHAAF: Because it's...it would be commercial. [LR496]

SENATOR LANGEMEIER: But we don't assess commercial on a cap rate. [LR496]

GENE SCHAAF: Well, but it's... [LR496]

SENATOR LANGEMEIER: We assess commercial on retail sales, market driven. We create special legislation to assess one acre tracts in Nebraska? I mean Kansas is market driven. [LR496]

GENE SCHAAF: We can...excuse me, go ahead. [LR496]

SENATOR LANGEMEIER: What would be the logic to do one acre on a market driven? I'm not disagreeing with you. [LR496]

GENE SCHAAF: No, I know that. I know. [LR496]

SENATOR LANGEMEIER: I'm just saying that we don't assess anything else in Nebraska on income base and we've had a lot of bills to look at that, but why maybe this spot? Because there's no sales? [LR496]

GENE SCHAAF: I...it just...it was a new...basically a new thing and it just seemed like, you know, in our rationale, that it should have a decent value on it being as the income part of it was so great. You know, we do...and I know residential is different, but we do put the first acre basically at what we want it to be. I mean we do have that leeway.

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[LR496]

SENATOR LANGEMEIER: Right. [LR496]

GENE SCHAAF: And I'm not saying (laugh) that that is, you know, it should be...you know, reflect this. But, you know, that was just my thoughts and, you know, maybe that could be looked at. You know, maybe we need to look at income. We hear that from farmers all the time, that they would like us to value their land based on income or a production type system, so... [LR496]

SENATOR CORNETT: I was going to say, just so you know, we're looking at something along those lines. [LR496]

GENE SCHAAF: Yes, I have heard that. But, you know... [LR496]

SENATOR LANGEMEIER: And I appreciate it. Like I said, I'm not disagreeing. [LR496]

GENE SCHAAF: Yeah. No, yeah. [LR496]

SENATOR LANGEMEIER: I'm just...we're learning stuff here and I greatly appreciate it. [LR496]

GENE SCHAAF: Yeah. But I just...I thought, you know, \$12,000 was cheap and, you know, just figuring, you know, on the income part,... [LR496]

SENATOR LANGEMEIER: Sure. [LR496]

GENE SCHAAF: ...but...okay. Thank you. [LR496]

SENATOR LANGEMEIER: Thank you. [LR496]

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SENATOR CORNETT: Any further testifiers? Come on up. [LR496]

LINDA WUEBBEN: My name is Linda Wuebben, L-i-n-d-a W-u-e-b-b-e-n. I wondered if you have considered any studies about the health issues with windfarms, how close they should be to residences or, you know, what the setback should be. I know, is there a couple states, maybe Kentucky or Tennessee, that have some regulations about how far they should be from residences? [LR496]

SENATOR LANGEMEIER: Yeah, I don't... [LR496]

LINDA WUEBBEN: You're not familiar. [LR496]

SENATOR LANGEMEIER: Yeah, I don't know of any state that has any regulation on distance. [LR496]

LINDA WUEBBEN: Okay. [LR496]

SENATOR LANGEMEIER: I know there are...in our research there were some towns that had local within their...they just wouldn't allow them. I don't know if they had any rules. They just wouldn't approve anything within their jurisdiction. I think Bloomfield has a one-mile jurisdiction... [LR496]

LINDA WUEBBEN: Uh-huh. [LR496]

SENATOR LANGEMEIER: ...because of your class size, but I don't know of any states that...but I'll look into that. [LR496]

LINDA WUEBBEN: Well, you know, because some people who live in the country aren't getting the benefit and they may have a turbine close to where they live and may not be

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happy about it,... [LR496]

SENATOR LANGEMEIER: Sure. [LR496]

LINDA WUEBBEN: ...and they have no compensation, even though they...and may possibly decrease the value of their home because of the noise or the effect of the turbines or something like that. [LR496]

SENATOR CORNETT: I was going to say I've read a number of studies about environmental impacts in regards to migratory fowl, but I have not read any health concerns for human beings on them. [LR496]

LINDA WUEBBEN: I know I read an article, I think it was a man in New York that inherited a farm from his dad and he had a wind tower fairly close to his house, 100 feet maybe, and he said he couldn't sleep. [LR496]

SENATOR CORNETT: Due to the noise? [LR496]

LINDA WUEBBEN: Yeah. And then there's also the thing where if the turbine is between the sun and your house and so then you get this flickering inside your house and that is hard on... [LR496]

SENATOR CORNETT: I was going to say again, those might be annoyances more than health issues. But if you have any articles that you'd like to submit to us, we'd be more than happy to distribute them and look at them. [LR496]

LINDA WUEBBEN: Okay. Okay. Thank you. [LR496]

SENATOR CORNETT: Next testifier. Hi. [LR496]

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LIZ DOERR: Hi. I'm Liz Doerr, L-i-z D-o-e-r-r. I'm the zoning administrator here. I can answer somewhat on those questions that she just presented because we do have setbacks. You know, we were the test case (laugh), so... [LR496]

SENATOR CORNETT: I think you were referred to as the guinea pigs earlier. (Laugh) [LR496]

LIZ DOERR: Yes. And so we just went off of some recommendations. Now from the zoning community, we...there has been talk about like any future windfarms coming in, that their agreements, you know, you would have one payment to that landowner that has the tower, but if you had, say, a quarter of ground in-between two towers and say there was a residence on that and it met the setbacks for the noise but, you know, it could still have some effect on them, that they would maybe get a payment too. And so just thinking of that, if that were to be the case on one of these future windfarms, that might effect on all the assessments and everything. [LR496]

SENATOR CORNETT: So... [LR496]

LIZ DOERR: So just...it's just a comment to... [LR496]

SENATOR CORNETT: Let me ask you a question in regards to that. [LR496]

LIZ DOERR: Uh-huh. [LR496]

SENATOR CORNETT: When you were looking at that, were you actually looking at the nuisance factor or the visual appeal of being stuck between two wind towers or was there anything in regards to health, as the other woman mentioned? [LR496]

LIZ DOERR: Not necessarily health, no, more nuisance. [LR496]

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SENATOR CORNETT: Just more nuisance factor? [LR496]

LIZ DOERR: When we did our regulations, we had gotten recommendations. We got like a draft from a couple of consultants that were working on it and then we had a hearing and at that hearing John Richards came, and he's the engineer with NPPD and he gave us a world of feedback on these different nuisances and kind of put them all into perspective. And so we just made our decision based off of...you know. [LR496]

SENATOR CORNETT: So if there...this is just an example. So if you have a house... [LR496]

LIZ DOERR: Uh-huh. [LR496]

SENATOR CORNETT: ...that is owned by someone and their neighbor puts a...signs a lease for a wind tower,... [LR496]

LIZ DOERR: Uh-huh. [LR496]

SENATOR CORNETT: ...even though if it meets the setback costs, if there is a decrease in valuation for that house because of visual appeal or whatever, that the person that owns that house needs to be compensated for their loss in valuation. [LR496]

LIZ DOERR: No, not necessarily. Well, maybe. I'm not sure. [LR496]

SENATOR CORNETT: Because, I mean, theoretically you could get a loss in valuation on your property. [LR496]

LIZ DOERR: Possibly. It's just some talk that I've heard that some of the windfarms are considering that, you know, if there is somebody close enough within...you know, if you

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had this imaginary boundary around that windfarm, you know, and you had somebody that maybe met that setback for the noise but still could hear it because, you know, we actually had somebody, what was it, like over a mile away (inaudible) that complained about the noise. So he felt his valuation should go down. So, you know, that... [LR496]

SENATOR CORNETT: And they build an interstate, you can hear it too. Right? That's... (Laugh) [LR496]

LIZ DOERR: Yeah. Yeah. And so it's just something I wanted you to be aware of, you know, that we have received some of those complaints. Now for us, it's all been noise. [LR496]

SENATOR CORNETT: How do you gauge that? Do you have a wind...a sound meter? [LR496]

LIZ DOERR: No, what we require is an acoustical analysis by an engineer, and I go off of what they submit. [LR496]

SENATOR CORNETT: That analysis. [LR496]

LIZ DOERR: And the big challenge with it is noises vary. You know, on a windy day you have more of the ambient noises that mask some of that noise. Some days noise carries a lot farther than others. [LR496]

SENATOR CORNETT: You get into everything from humidity and... [LR496]

LIZ DOERR: Uh-huh. [LR496]

SENATOR CORNETT: Yeah. [LR496]

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LIZ DOERR: Right. And when I received the most complaints it was like maybe a humid, overcast day where it kind of trapped the sound down in. I have one landowner that has talked to me different times about the noise. It bothers him. He and his wife live in the same house and it doesn't bother his wife. It's kind of a personal thing too. He deals some with the flicker but he said it's not bad. He has cattle there. It has had no effect on the cattle. You know, I don't think any of this has affected his health but it's more, like you said, an annoyance and, you know, so even though he met those setbacks for the noise and... [LR496]

SENATOR CORNETT: What is your setback? [LR496]

LIZ DOERR: ...he actually had several towers right on his land. [LR496]

SENATOR CORNETT: What is your setback? So he has the towers actually on his land. [LR496]

LIZ DOERR: On his own land. [LR496]

SENATOR CORNETT: He's leased it out. [LR496]

LIZ DOERR: This particular person. But we have, you know, someone else a mile away... [LR496]

SENATOR CORNETT: That's complained. [LR496]

LIZ DOERR: ...that has complained that does not have a tower. And so, you know, that...you know, we'll wait to see what the sales are. In my mind, the person with the tower, that land, you know, if you knew you were going to get a payment... [LR496]

SENATOR CORNETT: I...I...I'm sorry. (Laugh) [LR496]

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LIZ DOERR: ...it's going to up, you know? [LR496]

SENATOR CORNETT: Yeah. [LR496]

LIZ DOERR: But... [LR496]

SENATOR CORNETT: He signed the contract. [LR496]

LIZ DOERR: Right. [LR496]

SENATOR CORNETT: Yeah. [LR496]

LIZ DOERR: Right. [LR496]

SENATOR CORNETT: I am not as sympathetic to that as I would be... [LR496]

LIZ DOERR: Right. But the neighbor, who is not receiving any income at this time, could have a drop in his appraised value. I don't know. You know, we haven't had any sales. [LR496]

SENATOR CORNETT: Now that would be...I was going to say that would be something that would concern me... [LR496]

LIZ DOERR: Uh-huh. [LR496]

SENATOR CORNETT: ...is if we're causing a drop in valuation based on this and if there's any compensation for that. [LR496]

LIZ DOERR: Yeah, and we don't know because it hasn't happened yet. But I know, you

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know, I've worked with Monica quite a bit because I get a lot of the questions even though I don't deal with the tax end of it myself,... [LR496]

SENATOR CORNETT: You're dealing with the zoning issues. [LR496]

LIZ DOERR: ...and it has been very confusing all along because the state, you know, has changed first, you know, how many years we were supposed to have it...the taxes and then they changed. I think it was like 21st or something and then they went to 5 and now it's changed again. [LR496]

SENATOR CORNETT: That wouldn't have...I was going to say but that wouldn't have changed your zoning issues. [LR496]

LIZ DOERR: No. No. [LR496]

SENATOR CORNETT: No. Okay. [LR496]

LIZ DOERR: No. And when we were working on the zoning thing, you know, we learned about, you know, the birds, the ice sling, all those types of things, and the noise has really been the only complaint I've received as a zoning administrator. [LR496]

SENATOR CORNETT: Okay. Thank you very much. [LR496]

LIZ DOERR: Uh-huh. [LR496]

SENATOR CORNETT: Any questions from the committee? Okay, thank you. Next testifier. [LR496]

JERRY HANEFELDT: Jerry Hanefeldt, J-e-r-r-y H-a-n-e-f-e-l-d-t, District 4 supervisor, Knox County. I guess I would just like, first off, an answer to Ryan's question earlier of

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why Knox County wasn't grandfathered in when LB1048 came into existence. Secondly, you know, I would think the Legislature would have known a year and a half into this of the tax implications of taking that money back and spreading it out over a seven-year period. Myself, as a board member, and I, you know, I won't speak for the rest of the board, but we seem to feel a certain amount of apprehension. First off--and I'm going to pull Elkhorn Ridge and revenue, property assessment tax taxation all into this as well--Knox County never found out that Elkhorn Ridge had filed a property tax protest on their centrally assessed value till you guys were in session. It was late in April, if not even beyond that. We never knew that an appeal had ever been filed. And in trying to get any information, as Monica attested, she would call down there, you know, get very little... [LR496]

SENATOR CORNETT: Just specify, call down where? [LR496]

JERRY HANEFELDT: To Department of Revenue,... [LR496]

SENATOR CORNETT: Okay. [LR496]

JERRY HANEFELDT: ...Property Assessment. [LR496]

SENATOR CORNETT: And I was going to say, just for clarification... [LR496]

JERRY HANEFELDT: Sure, I understand. [LR496]

SENATOR CORNETT: ...we on the Revenue Committee are not notified when someone files an appeal. [LR496]

JERRY HANEFELDT: I understand that. [LR496]

SENATOR CORNETT: Okay. [LR496]

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JERRY HANEFELDT: I'm just trying to draw a big picture... [LR496]

SENATOR CORNETT: No. [LR496]

JERRY HANEFELDT: ...for you so you can kind of see why we're just uneasy about things that are going on. Then we find out that their appeal had been dropped and they were going to go ahead and pay the tax, and it just seemed too coincidental that we were notified of anything. And I know you guys have nothing to do with the appeal process or nor whether or not a county needs to be notified. Department of Revenue just said it was merely an oversight on their part. I find that very hard to believe. [LR496]

SENATOR CORNETT: Which that you were notified was an oversight? [LR496]

JERRY HANEFELDT: That an appeal, a protest had been filed. [LR496]

SENATOR CORNETT: But you're saying that you...the fact that you weren't notified of that protest... [LR496]

JERRY HANEFELDT: Correct. [LR496]

SENATOR CORNETT: ...was an oversight. [LR496]

JERRY HANEFELDT: That's what they say, yes. [LR496]

SENATOR CORNETT: Okay. [LR496]

JERRY HANEFELDT: And, I mean, we...it just makes you kind of skittish, I guess, of things that are coming down the pipe. [LR496]

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SENATOR CORNETT: Senator Langemeier. [LR496]

SENATOR LANGEMEIER: I don't want to interrupt you, but I want to ask a question. I didn't know they filed for an appeal because that's irrelevant to us. [LR496]

JERRY HANEFELDT: Correct. [LR496]

SENATOR LANGEMEIER: But they had appealed their personal property tax assessment with the state... [LR496]

JERRY HANEFELDT: I believe that's correct. [LR496]

SENATOR LANGEMEIER: ...in sometime in '09, because they didn't like what you assessed them for '09? [LR496]

JERRY HANEFELDT: What the...yeah,... [LR496]

SENATOR LANGEMEIER: So they... [LR496]

JERRY HANEFELDT: ...whatever the centrally assessed... [LR496]

SENATOR LANGEMEIER: So they'd had done...so they had to do that in June, by June 1 of '09,... [LR496]

JERRY HANEFELDT: Whatever the deadline is for the regular. [LR496]

SENATOR LANGEMEIER: ...just like your, you know, protests by property value with you guys as a board. Okay. [LR496]

JERRY HANEFELDT: And it just seemed odd that we hadn't been notified of anything. I

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mean it would be just merely courtesy, in our opinion, to notify the county that such would... [LR496]

SENATOR LANGEMEIER: That's a different subject matter, but we can look at that, too, as why you weren't notify...or what the policy for notification is,... [LR496]

SENATOR CORNETT: I think...I was going to say generally they... [LR496]

SENATOR LANGEMEIER: ...that the committee will look at that. [LR496]

SENATOR CORNETT: I was going to say generally I know they're notified so...and I, from your conversation or what you've heard they said that it was an oversight that you weren't notified? [LR496]

JERRY HANEFELDT: Correct. [LR496]

SENATOR CORNETT: But generally those notifications do come, correct, generally? [LR496]

JERRY HANEFELDT: Well, as far as we know, you know, it should be. [LR496]

SENATOR CORNETT: Okay. [LR496]

JERRY HANEFELDT: But it's just more of a... [LR496]

SENATOR LANGEMEIER: Well, is it adjusted? [LR496]

JERRY HANEFELDT: Pardon? [LR496]

SENATOR LANGEMEIER: Do you know what was the end result of that? Was it a...

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[LR496]

JERRY HANEFELDT: I don't know as if we ever did hear. Did we? [LR496]

MONICA McMANIGAL: It wasn't adjusted. [LR496]

SENATOR LANGEMEIER: Okay. [LR496]

MONICA McMANIGAL: They didn't stick within that same value that we had issued them. [LR496]

SENATOR CORNETT: And is that the \$2 million that you referred to earlier? [LR496]

MONICA McMANIGAL: Correct, approximately the \$2 million in taxes. [LR496]

JERRY HANEFELDT: Yeah. Right. [LR496]

MONICA McMANIGAL: So they dropped their appeal and then did pay the taxes, yes. [LR496]

SENATOR LANGEMEIER: Okay. That's another interesting note we're learning. We can see why you're a little more "on-edgy" about all this. [LR496]

JERRY HANEFELDT: Yeah. [LR496]

SENATOR LANGEMEIER: We appreciate it. [LR496]

JERRY HANEFELDT: But as far as grandfathering, what's the answer to that? I mean I would think that, you know, it would have been for future wind generation facilities and not backing up like they did, but... [LR496]

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SENATOR LANGEMEIER: Well, the reason, number one, to grandfather there's a little constitutional issue to grandfather one thing out, one particular out. It becomes called special legislation and you have a number of issues. As a Legislature and I guess my hope is, is that we knew you were going to get the '09 payment, which was due in 2010 and it was due well after we passed LB1048 and, matter of fact, it was probably due well after you had even started into your next budget year you knew that was coming. I guess personally, and I can't speak for anybody else, but I have enough faith in you as a commissioner that you know that if you're going to get a lump sum of money the first year, which is going to be the same amount of money you were going to get over seven years, that you as a board have enough financial responsibility to use that money with some interest that you're going to gain, because you got it up-front, over the next seven years and make responsible decisions. And I still think you're going to do that. It's kind of like that old saying a bird in your hand is worth two in the bush. You got seven years paid the first year with the new tax. Use it over the next seven years. Then you're going to, on year 8, you're going to get taxes, 8, 9, 10, 11, 12, 13, 14, all the way to year 26, which the old system on year 5 you get nothing for the future. Now that's back to the county. I want to commend the county, which the others didn't do, I want to commend the county. Because you looked at that windfall the first year, you lowered your property tax assessment. You guys should be commended because you did that. Others didn't do that. They just used that extra money. Instead of using it over the next few years, they just tried to plot away, how do we spend it all the first year? But the county commissioners, you actually lowered so you had to come back up. We feel for you on that. But I want to commend you because you did your job. And as the number one comment we all hear in the Legislature is our property taxes are too high, you guys addressed that and you should be commended for that. Schools, others didn't do that until this year, and I'm not sure why they went down this year but that's a whole different story. So that's why you didn't get exempted, because you just can't exempt somebody out. But we believe, and I still believe, that you guys are...been responsible to use that one-time payment into the future. [LR496]

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JERRY HANEFELDT: Uh-huh. [LR496]

SENATOR CORNETT: Let me ask you a question. Is your biggest opposition to not being grandfathered in on LB1048 the fact that it makes budgeting more difficult? Because it was our understanding, and I think Chris has reiterated that, that you would be getting the same amount of money just up-front and then when that period was up then you were going to...get money that you would never have gotten. And that's why we felt policywise moving in this direction would actually bring more money to the county in the long run. [LR496]

JERRY HANEFELDT: Right. Part of it is that and the other part, you know, it's awful hard to explain to your constituency why the levies are doing this. [LR496]

SENATOR CORNETT: But...and I'm just...I'm just being...playing the... [LR496]

JERRY HANEFELDT: Correct. I understand. [LR496]

SENATOR CORNETT: ...hypothetical bad guy here. [LR496]

JERRY HANEFELDT: Right. [LR496]

SENATOR CORNETT: If we grandfathered you in and you got five years of payment and then all the other people around you that had windfarms then started getting their yearly payment for the next 26 years, but wouldn't we be here 5 years from now going where's our payment? [LR496]

JERRY HANEFELDT: I don't know. You know, I was... [LR496]

SENATOR CORNETT: Because you're talking about, you know, a steady source of

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income for 25-26 years, plus an up-front payment, where if you were grandfathered you would have only gotten 5 years of payments for the same amount as the up-front amount. [LR496]

JERRY HANEFELDT: True. But I think that the county board, as well as the other entities that all had a stake at this, would have been more prudent in their decisions on how to use that...those...that funding. [LR496]

SENATOR CORNETT: And I would definitely agree that we put you in a very difficult spot as, I mean, it's politicians talking to a politician. All of a sudden, you've got to explain why you're going back up on your levy. But in the long run, do you feel that your county is better off because you'll be getting pay...you'll be getting that money plus payments for a number of years into the future that you would not have been getting? [LR496]

JERRY HANEFELDT: Probably. [LR496]

SENATOR CORNETT: Okay. And that is part of the reason for this hearing and what Cap is looking at is a way to try and maybe offset some of that difficulty for your district. [LR496]

JERRY HANEFELDT: Yeah. And like Norman said earlier, you know, we're just very lucky that the Bloomfield didn't do something. [LR496]

SENATOR CORNETT: Oh, and without a doubt. [LR496]

JERRY HANEFELDT: We'd have been in a lot of hot water. [LR496]

SENATOR CORNETT: And I guarantee you we'd be looking at a fix for that school district. [LR496]

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SENATOR LANGEMEIER: And one more comment is I hope the school district continues to go forward with their school improvement, because they can still bond it. [LR496]

JERRY HANEFELDT: Uh-huh. [LR496]

SENATOR LANGEMEIER: And they have a big payment to put down. [LR496]

JERRY HANEFELDT: Correct. [LR496]

SENATOR LANGEMEIER: And they have a long-term revenue solution... [LR496]

SENATOR CORNETT: To pay for it. [LR496]

JERRY HANEFELDT: Right. [LR496]

SENATOR LANGEMEIER: ...to pay for that bond. [LR496]

JERRY HANEFELDT: Right. [LR496]

SENATOR LANGEMEIER: Instead of paying it...they hope to pay it in two years, which they got \$1.64 million this year, that's a pretty good start to a school. [LR496]

JERRY HANEFELDT: Uh-huh. [LR496]

SENATOR LANGEMEIER: I don't know what their plans exactly were. I didn't see the blueprints. But you got a heck of a revenue source that's going to help pay for a school long term. [LR496]

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JERRY HANEFELDT: Uh-huh. Okay. [LR496]

SENATOR LANGEMEIER: And I know pass...trying to do a bond is always a touchy, touchy issue. [LR496]

JERRY HANEFELDT: Uh-huh. Okay. Thank you. [LR496]

SENATOR LANGEMEIER: Thanks for testifying. [LR496]

SENATOR CORNETT: Further testifiers? This side of the room? I was going to say it seems like everything has come from this side. (Laugh) [LR496]

GEORGE PICK: George P-i-c-k, George, G-e-o-r-g-e P-i-c-k, Hartington, Nebraska. I was looking over your legislation here and I notice in paragraph (3)... [LR496]

SENATOR CORNETT: Just for clarification, this isn't legislation. [LR496]

GEORGE PICK: Okay. [LR496]

SENATOR CORNETT: This is simply a resolution for us to come out and... [LR496]

GEORGE PICK: Resolution. I'm looking over your resolution, okay? [LR496]

SENATOR CORNETT: ...yeah, and to speak to the issues. [LR496]

GEORGE PICK: On paragraph (3), whether taxation of wind energy should be centrally assessed, I agree with that because I think it should be uniformity across the state. And your inquiry here, I would like to see it go further. I'd like to see it look into cell phone, telephones, too, cell phone towers. And I think if this...I don't know if you've done it or your Legislative Research has, nobody has touched on the building permits for these

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type of structures and I think you're going to find there's a huge various between the counties in the state. And I wonder if you should take a check on that or your research committee look at that. [LR496]

SENATOR CORNETT: You mean regulating what a county charges for a building permit? [LR496]

GEORGE PICK: Well, what are the building permits? I mean, you know, cell phone towers are making all kinds of money today and it is a private business and you're seeing them go up all over. And there should be some uniformity in the building permits, I would think. [LR496]

SENATOR CORNETT: Okay. I was going to say I think...go ahead, Chris. [LR496]

SENATOR LANGEMEIER: I just want to talk about the uniformity. And I appreciate you testifying again. What our office has done in courtesy of right here, Bloomfield, and looking at some of the county zoning that's happened here, we've gone through county zoning that has started to go into place for wind towers, which involves your building permits and all that good stuff. And what we've done is we've gone through and kind of put some models together and we've asked NACO and county officials to start distributing that amongst the counties so...because we have a lot of counties that have no zoning. You guys were the guinea pigs. We've heard that before. We've got a lot of counties out there that have no zoning. We have some counties, like Cass County, that has gone over the deep end with zoning. And so we've sent out some models to try and get some uniformity and hopefully they'll take those, those planning and zoning...county planning and zoning across the state will look at that and try to get some uniformity out there. [LR496]

GEORGE PICK: Well, first of all, I'd like to thank the committee for coming to northeast Nebraska because, you know, Knox County and Cedar County have really a death trap

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for assessors, because you look at the devils this area up here, you look at the river frontage, the lake area, it's poison. And look at Cedar County where the National Park Service buys land and, to me, I've never agreed with the state of Nebraska going on sales. To me, I don't care if they go on sales, but leave the neighbors alone. Somebody would have the courage to introduce legislation. Yeah, we go on sales but leave the neighbors alone. You'd solve a lot of problems. That's just my opinion, but I've seen enough of it because I do have an assessor's certificate and I've been a county commissioner, so I've been there and done it and I've seen it. And so I just suggest the things here. I'd hope we'd look at a couple of these issues on the building permits, because it all boils together. And I think you people are luckier today because you've had some good testimony from some intelligent people that did their homework, and that's an asset because I see like Senator Langemeier's question and I got to give you credit, knowing the valuation, what happened with the increases in the land values. I know myself, I'm not happy because I've gotten increases on my agricultural land every year for eight years. And when you talk about equalization in the state, it seems like the residential and the commercial doesn't get done. So how we got equalization, I mean, it's total hell. It's not...I don't think it's fair at all. And I'm sorry but, I don't know, I see things where I think you try to do a good job and you've admitted people always complain about taxes but they haven't come up with issues on how to resolve it. And I do think the State Auditor has done a job, and so has the World-Herald, at pulling out some huge discrepancies right in Bellevue and how many other places. I know we got them. So, okay, any questions? [LR496]

SENATOR CORNETT: Questions from the committee? Senator Dierks? [LR496]

GEORGE PICK: Thank you. [LR496]

SENATOR CORNETT: Senator Langemeier. [LR496]

SENATOR LANGEMEIER: Yeah, my only comment is thank you. And in my real job, I'm

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a certified general appraiser, so I can understand very well what... [LR496]

GEORGE PICK: Well, then I can visit with you afterwards (laugh)... [LR496]

SENATOR LANGEMEIER: I can relate to what you do. [LR496]

GEORGE PICK: ...because I want to know in estate planning we have to have two appraisers instead of using the state valuation. [LR496]

SENATOR CORNETT: Next testifier. Would anyone else like to testify? Okay. Last chance. All right. That will close the hearing for today. Cap, do you have any comments? [LR496]

SENATOR DIERKS: Yeah. I'd just like to thank you for your turnout and express thanks to you also for your ability to come up and talk with us and tell us where the problems are. We can't do it without your input, so thanks very much. [LR496]

SENATOR LANGEMEIER: I want to get your contacts there. We'll talk to the department (inaudible). [LR496]

SENATOR CORNETT: I was going to say I...definitely. Chris, I meet with Doug tomorrow. Oh, excuse me. Before anyone leaves, if anyone came up to testify that did not fill out a testifier sheet, we have to have that before you leave. [LR496]

SENATOR DIERKS: The other thing is they can call and write for a transcript. [LR496]

SENATOR CORNETT: Oh. And if anyone would like a transcript of the hearing, they can call our office and we will get that to you. [LR496]