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Revenue Committee  
January 21, 2011

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[LB33 LB69]

The Committee on Revenue met at 1:30 p.m. on Friday, January 21, 2011, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB33 and LB69. Senators present: Abbie Cornett, Chairperson; Dennis Utter, Vice Chairperson; Greg Adams; Deb Fischer; LeRoy Louden; and Pete Pirsch. Senators absent: Galen Hadley and Dave Pankonin.

SENATOR CORNETT: Good afternoon. I am Senator Abbie Cornett from Bellevue. To my left is Vice Chair Senator Dennis Utter from Hastings. To his left is Senator Deb Fischer from Valentine. Senator Greg Adams is just joining us. On my far right would be Senator Pankonin. He is excused today. Senator Pirsch from Omaha; Senator LeRoy Louden from Ellsworth; and Senator Hadley from Kearney will not be joining us either today. Our research analysts are Steve Moore to my right; Bill Lock is going to be absent today. Matt Rathje is committee clerk, on my far left. Our pages today are Marilyn Buresh and Amara Meyer. Before we begin the hearings today, I'd please ask everyone to turn their cell phones to either the off or the vibrate. Sign-in sheets for testifiers are on the table by both doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, a sheet needs to be filled out for each bill you are testifying on. When you come up to testify, please hand that to committee clerk. Please print when you complete the form prior to coming up to testify. There are also clipboards at the back of the room by the doors to sign if you do not wish to testify but would like to indicate either your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted on the door today: the introducer, followed by proponents, opponents, and then neutral. Only the introducer will be allowed the right for closing remarks. As you begin your testimony, please state and spell your name for the record. If you have handouts, please bring them up. We need ten copies and hand them to the pages. If you do not have ten copies, we will make copies for you. With that, we will open the hearings on LB33. Senator Louden.

SENATOR LOUDEN: Good afternoon, Senator Cornett and members of the Revenue Committee. My name is LeRoy Louden and that's spelled L-e-R-o-y L-o-u-d-e-n, and I represent District 49. LB33 is a simple bill. All it does is change the taxable value of agricultural land from 75 percent to 70 percent. The reason I have introduced this legislation is to alleviate some of the inequity that is arising because of the increase in agricultural land in Nebraska. Agricultural land has risen as much as 10 to 12 percent each year in the last two years. Commercial and residential property have risen from about 2 to 5 percent in the same time frame. In counties that have a large percentage of agricultural land as their valuation, such as 60 percent or more and as high as 80 percent range, they have been contributing more to school and local funding than you would with your commercial or your residential property. By lowering the percentage, I believe this would help with the unfairness of contributions due to the big increase in the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

valuation of ag land. This isn't something that's going to save a lot of money or save people taxes. As I said with people I discussed with, it won't stop the bleeding but it will maybe dull the knife a little bit. And that's about where we are with it. As we've had an increase in valuations here in the last year, in fact, I think if you'll look at the statement that Bill Lock, the research analyst, put out, I think he mentioned that if they increase 7 percent there probably wouldn't be any difference at all in the counties or the school TEEOSA aid that would be affected by it. As I've looked through this, I think there's around six or seven school districts that receive somewhere over \$5 million of TEEOSA aid that don't have any ag land in their district to speak of. Douglas County I think has .25 percent of ag land valuation and Lancaster County has 1.45 or something like that ag land valuation. So some of the major school districts that receive state aid don't have any ag land for valuation in their district to speak of. What this will do is, to put it bluntly, is sort of...is a tax shift from your ag lands back into your commercial and industrial property. Now out in your rural areas, this would probably help because I have discussed this with people and some of them said, well, we'd like to have a little bit more fairness and help from the people in towns to help support the schools than what we've been doing. Now if you'll ever look through some of these things that the Department of Revenue put out like this and you can see where some of those counties that have railroads through them, such as Alliance up there, there's a little bit more. Quite a little of their property valuation comes from railroads or if there's railroad lines through there. So that valuation will be shifted a little bit more towards the railroads than it is off of ag land property. So with that, I would probably be willing to answer any questions. [LB33]

SENATOR CORNETT: Senator Pirsch. [LB33]

SENATOR PIRSCH: How...in our relative reliance on taxing agricultural land and horticultural land, how do we compare relative to other nearby states--Kansas, South Dakota, Iowa? [LB33]

SENATOR LOUDEN: Well, percentagewise, I don't know for sure. I think some of these other people could probably testify to that a little bit better than I can. But I know we're way higher than other states with our ag land because as anybody that's in our district, we're always getting complaints about how much less property taxes they pay in other states than what we pay in Nebraska. And most of that is...comes into our supporting our schools in these ag lands. And that's probably about 60, 65 percent of our tax bill in these ag counties is school support. [LB33]

SENATOR PIRSCH: Would that extra cost then that you're saying it's relatively cheaper to be in other states involved in these type of agricultural, horticultural endeavors, would that be a reflection then in our prices, our agricultural prices in terms of putting it at a competitive disadvantage for the state? [LB33]

SENATOR LOUDEN: You mean as far as selling the land and buying it? [LB33]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

SENATOR PIRSCH: Well, I mean if you are right from the get-go as a farmer in Nebraska paying more than your competitive neighbors are paying to utilize the land in terms of taxes and ostensibly that's going to be reflected in the price of your crops or your cattle, right? [LB33]

SENATOR LOUDEN: It reflects your bottom line, yes. [LB33]

SENATOR PIRSCH: Yeah. Does that put us at a competitive disadvantage then to those states? [LB33]

SENATOR LOUDEN: Well, yeah. We're at a disadvantage. Now there must be other factors that involve that because usually this Sandhill ranchland and some of that seems to be some of the highest priced ranchland there is in the world unless you get scenic property in the mountains or something like that. But as far as operating ranchlands, that...whether tax or no, they still seem to be buying it up at any rate. The advantage is that probably it doesn't cost as much to operate in other states as it does here, but there's probably a reason why Sandhill land is higher priced. Mostly it always has been that in your ranchlands in Nebraska you didn't have to disperse your herds from time to time because of drought and severe winters as you do like in Montana or Wyoming or something like that. You'd have some drought years, you don't have any grass so you got to get rid of your herds of cattle and start all over again. In Nebraska, that's always been historical that you didn't have to do that in the ranchlands in Nebraska. [LB33]

SENATOR PIRSCH: Thanks. [LB33]

SENATOR CORNETT: Further questions from the committee? Thank you, Senator Louden. We'll open the hearing for proponents. Sorry, go ahead. [LB33]

NATHAN BARTELS: Senator Cornett and members of the Revenue Committee, my name is Nathan Bartels, N-a-t-h-a-n B-a-r-t-e-l-s, and I'm a member of the Johnson County Farm Bureau. I also serve on the Nebraska Farm Bureau Federation Board of Directors. I appear before you today on behalf of the members of the Nebraska Farm Bureau Federation. We certainly appreciate Senator Louden's introducing LB33. In representing many landowners, Nebraska Farm Bureau Federation has a strong interest in this topic. Last June after valuation notices were sent to landowners, our staff received countless number of calls expressing displeasure with their valuation increases. Since 2005, increases in land values from year to year have been 8.45 percent, 3.35 percent, 10.3 percent, 12.28 percent, and 11.75 percent. Over five years, it amounts to a 46 percent increase statewide, and several landowners have experienced increases even higher. Over the same period, property tax increases statewide on agricultural real estate have increased nearly 43 percent, almost twice the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

percentage increase on residential properties of 22 percent. Nebraska Farm Bureau's policy supports an income capitalization approach as the most equitable means of valuing agricultural land for tax purposes, but also maintains that if an income capitalization approach is not feasible we would support lowering the current 75 percent of the market level of the value. While we acknowledge farm income conditions are dominant in the land markets currently, Farm Bureau's farmer and rancher members continue to be concerned with the influences of nonagricultural factors in the market. Section 1031 tax exchanges, nonagricultural investors, and persons purchasing property for recreational purposes continue to be influences in the market. The June 2010 UNL report of the Nebraska farm real estate markets reported that respondents believe purchases for farm expansion were having the most positive impact on land prices. Following farm expansion, however, nonfarmer investor interest in 1031 tax exchanges were rated fifth and sixth highest in their positive influence on land prices. The same report in 2006 reported that respondents believe 1031 tax exchanges and nonfarmer investors were the two strongest factors contributing to higher land values. Interestingly and while it varies across the state, the 2010 report showed that 25 percent of the buyers in the northwest crop reporting district were either local nonfarmers, nonlocal Nebraska residents, or out-of-state buyers. And in the north, 49 percent of the buyers fell into the same three categories. So it appears some of the market is driven by nonagricultural factors. Given our present system of basing agricultural land values on market prices, it is difficult to sort out nonagriculture influences in the market. Thus, these influences get captured in the assessed values and property taxes paid. Moreover, only 3 percent or less of agricultural property in the state will transfer ownership in any given year. Thus, the market may be too thin to provide a reasonable test to market value--too few sales to assign value to the entire universe of agricultural land. Farm Bureau supports LB33 because it can help mitigate for these factors and help offset the recent increases in land values. Farmers and ranchers certainly want to pay their share in supporting local schools and governments, but feel today they're being asked to do too much. LB33 would be a step in the right direction. We would be happy to work with the committee as they continue to look at this important issue. Thank you for your opportunity to provide comments. I would be happy to answer any questions you might have. [LB33]

SENATOR CORNETT: Questions from the committee? Senator Utter and then Senator Adams. [LB33]

SENATOR UTTER: Thank you, Mr. Bartels, for your testimony. I have just one question and that is, is there a rational reason that we've gone from 75 to 70 percent? It's an increment of five, I understand that. But is there some basis do you feel in this...in arriving at the 75 percent figure? Maybe it should be 65. Maybe it should be 71. I don't know. I just want to know if there's some basis or is that what we feel like maybe the market would bear? [LB33]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

NATHAN BARTELS: Yeah. We have to work within what we think we can accomplish. We didn't want to swing for the fences. [LB33]

SENATOR CORNETT: Senator Adams. [LB33]

SENATOR ADAMS: I know it's different all over the state, whether it's row crop or cattle, Sandhills versus closer to Lincoln and you listed several things. I've been trying to ask a lot of questions in my district about land values. What would you say is the biggest contributing factor to pushing these values up right now? I know you mentioned 1031s. I'm not hearing as much in my district about 1031 exchanges as we used to. Go ahead. [LB33]

NATHAN BARTELS: Well, currently grain prices are higher and that is one of the factors. Grain prices...and that does tend to push land up. That is probably it right now. [LB33]

SENATOR ADAMS: Makes sense that that would. [LB33]

NATHAN BARTELS: Um-hum. But you got to keep in mind that if your land was worth \$1,000 an acre and now it's worth \$2,000 an acre because grain prices are higher, government that benefits from the increase in valuation, or the increase...yeah, the increase in valuation is taking twice as much money into their coffers. Do they really need that much more money to do the same thing that they did with half as much money a few years ago? And wouldn't it make sense to empower agriculture even further because so far agriculture is kind of carrying the state. We have less than 5 percent unemployment, and the investments that we have made in agriculture are paying off because, you know, one in three jobs are from agriculture in this state. [LB33]

SENATOR ADAMS: Okay. Thank you. [LB33]

SENATOR CORNETT: When you opened on your testimony, you talked about the income approach and that it sounded like you were implying that you'd prefer that method. Is that what you were saying? [LB33]

NATHAN BARTELS: Um-hum. [LB33]

SENATOR CORNETT: If we worked on an income approach because this is something that I've been working on for I guess this is my seventh year now, in regards to ag land valuation, and it's a very difficult, difficult to make equitable or in the eyes of agriculture and I understand that. If we hadn't moved towards an income approach a few years ago when farmers weren't making income, that would have made sense. Currently, though, people are making record profits. Would an income method still be the approach that you would want? We have also looked at and I've introduced a bill for an income

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

method, basically as a circuit breaker for the lower income so they can break into the industry. We have taken the Revenue Committee around the state and heard how difficult it is for young people to get into agriculture because of the cost of the land and the property taxes. But we've also looked at the fact that a lot of the valuations, particularly in the Sandhills, is being driven up because of recreational use. Have you explored any thoughts on separating working farms out from recreational use? Or have you looked at any of the ideas of raising valuation on soil grades? [LB33]

NATHAN BARTELS: I believe there's a bill, LB69, that we're going to be testifying on today and that kind of addresses the 1031 exchange. [LB33]

SENATOR CORNETT: But not really what we're talking about. [LB33]

NATHAN BARTELS: Well, that's just 1031. That isn't...that doesn't separate out recreational. That's right. [LB33]

SENATOR CORNETT: No, it does not. [LB33]

NATHAN BARTELS: That's hard to... [LB33]

SENATOR CORNETT: Because a lot of the times, particularly in the Sandhills, G4 soil, the lowest grade, land is selling for the highest prices for recreational use, not traditional ag or ranching. Am I correct? [LB33]

NATHAN BARTELS: I'll take what you said as correct. [LB33]

SENATOR CORNETT: Okay. [LB33]

NATHAN BARTELS: I don't know about Sandhills. I'm from southeast Nebraska and maybe the recreational influence isn't as strong in southeast Nebraska. But as I recall visiting with somebody that that was an issue to make it equitable from area to area with the income capitalization approach. [LB33]

SENATOR CORNETT: But would income capitalization do anyone any favors at this point in the market? [LB33]

NATHAN BARTELS: Well, at this time when farmers are making more money, they're more capable or able to pay. [LB33]

SENATOR CORNETT: They're more able to pay property tax also. [LB33]

NATHAN BARTELS: Yes. But then when property goes down in value, then it softens the blow quite a bit. [LB33]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

SENATOR CORNETT: Okay. [LB33]

NATHAN BARTELS: And I think maybe that's probably what we're after. It softens the blow of property tax so it doesn't take away their solvency so much. They still have...it leaves more cash in their pockets to continue operating through tough times. [LB33]

SENATOR CORNETT: The income approach. [LB33]

NATHAN BARTELS: I think so. [LB33]

SENATOR CORNETT: Okay. Thank you. Further questions from the committee?  
Senator Fischer. []

SENATOR FISCHER: Thank you, Madam Chair. Thank you for coming today. What's the position of Farm Bureau on how we value property in this state? I know the states that surround Nebraska all use income-based approach and not market value or current market sales. What's Farm Bureau's position on that? [LB33]

NATHAN BARTELS: Well, we wanted to go to the income capitalization approach. That's what we prefer. I think I talked about that. And when we can't achieve that legislatively, we're going to try to support Senator Louden's bill. That, as far as I know, that's what Farm Bureau's policy is, is the income capitalization method. [LB33]

SENATOR FISCHER: Okay. Thank you. [LB33]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you for your testimony. Next proponent. [LB33]

PETE McClymont: Good afternoon, Madam Chair, members of the Revenue Committee. For the record, my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I am on staff and registered lobbyist with the Nebraska Cattlemen. To be efficient with the committee's time, I'm not going to repeat any of the information that Mr. Bartels represented here, so I'm going to focus more on the economic side of what this would mean to our members, primarily ranchers and to cattle feeders. As you mentioned, Senator Cornett, one of the things that's difficult as you talked about the income capitalization and the profit and loss that's in all these different sectors, for instance, since April 1 of 2010 cattle feeders have been profitable and they've been very profitable. But to be fair, if you go back and we verify these numbers with our market reporting service on staff and National Cattlemen's Beef Association's economist, and their data lines up with ours and that is from March or excuse me, April 1 of 2010, back 20 months, the cattle feeders in the state of Nebraska lost anywhere from \$800 million to \$1 billion in those 20 months. So that's not to say that we're here whining, if you will,

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

because it's just a verification of the wild swings that we can have, and we know that's part of our industry. So from that standpoint, that's the way the cattle feeders have lived and died in their profitability. With the ranching side of things, more to kind of what the nature of what I think Senator Louden is trying to achieve here, is we have a member in Sheridan County and that member bought their ranch in...or nine years ago and their property taxes have doubled in that time. The average number for this ranch per cow is \$52 a head. And more importantly, I think a better number is what the percentage is of their expenses. And depending on drought, because then you have to liquidate cows, depending on, you know, the winter feed costs, the number two cost in this operation was in terms of expenses was property tax. And so it...this operation can be...is anywhere from 14 percent; in a drought year it was close to 30 percent. So going from 75 to 70 is a help. Is it a huge benefit? But, no, it kind of gets it back with the escalating land prices. So there's plenty to talk about, but that's somewhat of the economic side and so I'll conclude my testimony. [LB33]

SENATOR CORNETT: Pete, we've had multiple discussions about this, and I've traveled the state and I've, unfortunately, drug the committee with me a couple of times or fortunately, depending on your point of view. Do you think that this is the fix or is it a Band-aid? Because in going around the state, there is differences in ag land between dryland farming, between irrigated, between ranching, the amount of land that it takes to raise a cow/calf in different areas of the state. Should we be looking at a different approach? And I know some of the things that we have talked about in the past are the income method, the soil gradient method, the reduction. But you know, when you do reduce this, while ag land is paying a huge percentage in, then that has to be made up in TEEOSA from the state. I mean is this a fix or is this just a Band-aid? [LB33]

PETE McCLYMONT: It would be my belief it's a Band-aid because to your point of view, we appreciate the work of the committee over the last couple of years the way you've included us and all the ag groups is that if you get into the details like you've talked about, it becomes extremely complicated. And so then to your point, because of the vast differences in our state, you look at the southeast corner of the state where Mr. Bartels is from to Senator Louden's district, you can have a wide array of issues that... [LB33]

SENATOR CORNETT: It's huge swings. [LB33]

PETE McCLYMONT: ...could put the counties and, more importantly, the schools in a difficult position on how they plan for their budgeting. So it's complex and it's involved from many different angles. So to keep working at it is about all we can do. [LB33]

SENATOR CORNETT: What is your feeling about separating recreational land out... [LB33]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

PETE McCLYMONT: Well, in terms... [LB33]

SENATOR CORNETT: ...if it is not used primarily for agriculture? [LB33]

PETE McCLYMONT: If those are taken out of the comparables which is dealt with in LB69, that goes more to the true nature of, yes, ag land valuation being part of the permanent funding of all the different receivers of property tax. [LB33]

SENATOR CORNETT: But when we do that, we fundamentally change comparables. [LB33]

PETE McCLYMONT: True. [LB33]

SENATOR CORNETT: Questions from the committee? Senator Fischer. [LB33]

SENATOR FISCHER: Thank you, Senator Cornett. Thank you, Mr. McClymont, for being here. As you know, I represent 13 counties and I can tell you in some of those counties recreational land use is already recognized because it's my understanding the way our constitution is set up we have two classes of land: ag land and everything else. And so if a piece of land is sold in one of my counties, it's up to the assessor to then determine if that is still ag land or has become something else. And I guess in some areas we're pretty fortunate because we do have county assessors who recognize that some of that land has now turned into something else, which is then valued at 100 percent. Back to one of your previous comments, and maybe I just think I'm agreeing with you, I see more discrepancies within ag land than I do between ag land and everything else. I think we need to look at irrigated land, dryland, and pastureland. Have you had a chance to look at a constitutional amendment that Senator Schilz has introduced that does that? [LB33]

PETE McCLYMONT: Yes. [LB33]

SENATOR FISCHER: I know we're not on that bill now, but do you think that is...am I off base here? Do you think that that's something that we need to consider? I mean I'm just looking at what's available to us. [LB33]

PETE McCLYMONT: First off, our board meets next Wednesday to establish positions so I won't speak for them, but, yeah, looking at that bill that Senator Schilz has brought without a doubt because you can have, even within the Sandhills, you can have a really high quality piece of ground to grass and yet then you go over the hill, depending on roads and so forth, and it's entirely different. So...and to your previous comment on assessors, we've got...we've had this issue with one of our board members in Thayer County where somebody will come in that loves hunting, loves fishing and buys a piece of ground that's got a lot of cedars on it, and they'll pay a lot of money because they

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

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want to go hunt and fish and that's fine. But then how do you, in fairness to this committee and the Department of Revenue, when they run enough cows on it to still have it be the primary activity of the ground, then it's still valued as ag land, but yet that person with the funds that bought that at a higher rate more than a rancher, they've complied with the law and it's still ag, but yet the whole purpose for the purchase was to have recreation out of it? So I mean I don't envy this committee and the Department of Revenue for what they're supposed to do in adherence with the law and statute. [LB33]

SENATOR FISCHER: Do you think it would be helpful for the state to offer more guidelines to our county assessors on how to make that changeover from ag land to recreation land? I don't know how to do it, but do you think that's needed maybe to come from the state level so we have uniformity? [LB33]

PETE McClymont: Yes. And I know in fairness to our member in Thayer County and the assessor in Thayer County, they wanted to make sure...that assessor wanted to make sure to the letter of the law they were doing the right thing. So they didn't want to get in trouble with the Department of Revenue, but yet they wanted to have the understanding of making sure how to comply and read that sale properly into the comparables. [LB33]

SENATOR FISCHER: When we dropped the valuation down a few years ago, did that really help or did that just pick up the slack or the overcharge from the increase in valuation to ag land? [LB33]

PETE McClymont: To be fair, I would agree with the way you assessed it, yes. [LB33]

SENATOR FISCHER: Thank you. [LB33]

PETE McClymont: And one last comment if you don't mind, Madam Chair, Senator Adams asked the question on how things have gone, you know, in terms of sales and so forth. I think if you look back in the course of history most of us would agree that when the economy has been in a really tough state, one thing that's always been a real solid investment is ag land. And so we're seeing that. We're seeing it not only from investors, but farmers and ranchers are buying ground too. So I think that's part of the mix, too, for understanding of the escalating values. [LB33]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you, Pete. [LB33]

PETE McClymont: Thank you. [LB33]

SENATOR CORNETT: Next proponent. Can I see a show of hands for the remaining proponents. Opponents. Go ahead. [LB33]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

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JOHN HANSEN: Madam Chair, members of the committee, for the record my name is John K. Hansen, Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union and am also their lobbyist. We are in support of LB33, and I would like to compliment both of the organizations before me for the good job I think they did of putting some good facts and information before the committee. I have been president of Nebraska Farmers Union for 21 years and so for 21 years, Madam Chair, I have been working at higher or lower levels on the issue of trying to figure out how we come up with a modern-day version of what we sort of used to do before the MAPCO decision and some of those issues when I first came in 21 years ago. And so previously the Legislature sort of looked at the ability of ag to pay and kind of made a seat of the pants but a somewhat flexible judgment based on how much can ag afford to pay in property taxes. And the process they had in place was one that got a lot of complaint but was in balance probably more broadly based accepted because the value of the land was more reflected based on its earnings capacity than the current system. And so we're in the current system now because of legal challenge and some, I believe, some fairly peculiar Supreme Court interpretations of certain phrases and clauses. And so we've struggled to come up with something that was both constitutional and still made some economic sense and some fairness. So, you know, trying to figure out what was the magic percentage was as much political as it was anything else based on how all these things work. And the complaint from ag is, you know, you're in a high risk, low return sector. You have a lot of outside variables. You have all the volatility of weather, markets, outside events so your incomes go up, your incomes go down. But your ag land doesn't seem to go down very fast. And so it seems to go up much faster than your ability to be able to chase the tax load. So of all of the issues that I've worked in my time as president, there is no more consistent issue that comes to my attention as I go across the state of Nebraska than the issue of property taxes. And so every time valuations come out we have another round of updated charts from our folks indicating how much their taxes have gone up by when...how much and when. And so it's an ongoing problem. We are in support of this bill. And I was intending to spend a little bit more time talking about the last issue that Pete McClymont brought up which is we're seeing, especially a lot of folks who have agriculture backgrounds, who've gone off in the world, made money, done well, they are not in the stock market. They're buying farmland in a lot of cases. They understand farmland. They're familiar with it. It gives them about a 10 percent return on investment most of the time. And it's going up in value. And it's very hard as a local farmer or rancher to compete against the neighbor kid who brings cash with him to the sale. And so we're seeing a very thinly traded number of sales continuing to push valuations. And in some areas the competition is more or less heavy, but it's an ongoing problem everywhere, whether it's...we're looking at rangeland values as well as ag land values and you certainly couldn't pay that much for them and just based on operating costs, make them cash flow. And so the press always asked me, how does this work? And I explained to them that if you're in the business all of the rest of the margin that you have on all the rest of your operation is

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

used to pay for that one additional parcel that you bought. It's not a stand-alone purchase based on just that parcel. So you're also seeing that between strong families. Land comes up once every 33 years. Most of them remember what it brought the last time and a lot of them remember what it brought the time before that. And every time it comes up, they think it's too much. But they also figure that if they're going to stay in the buggy they're going to have to buy and they just as well buy as rent. With that, I would close my testimony, wish the committee well, and answer any questions if I could. [LB33]

SENATOR CORNETT: Senator Pirsch. [LB33]

SENATOR PIRSCH: Yes. Thank you, John, for your comments here today and just like to see if I can draw upon your experience. And we're...I think the committee is after a fair and kind of comprehensive approach system of valuing ag land. And the problem is there's a lot of nuances, as has been stated here today, and so different cycles of the economy bring about different challenges. Is there any one system that you can point to that's been employed in any other state that has done a better, the best job or as good a job as can be expected in meeting all these unexpected types of economic situations and the different gradients that were talked about: dry, irrigated, ranch, recreational use? Would you point to some state as a model as having the hybrid that does the best job? [LB33]

JOHN HANSEN: Right now I...to be honest, I have not taken a look at the surrounding states' system. The last time I took a hard look was when Senator Coordsen was Vice Chair of this committee, and he had spent some number of years. And so there was some states that, as he was working on that, seemed like they did a better job and were a little more nuance. Then, of course, the capitalization rate has a lot to do with what the end product is in those formulas. But some states have done a...have been at it a long time, and I think that taking a look at those states would be appropriate. [LB33]

SENATOR CORNETT: Senator Adams. [LB33]

SENATOR ADAMS: John, in the last portion of your statement you characterized what I hear a lot from folks in my district and that is it's neighbor versus neighbor. This tract has come available and we have the cash. We're going to go after it now. On the other side of that, do you have any idea or any feel for proportionately currently how much is outside investment versus neighbor versus neighbor? [LB33]

JOHN HANSEN: The testimony from the Nebraska Farm Bureau had some of that in there. And in some cases it's in play and the local farmer still wins. But there is some outside cash that helps at least get it started and moves it part way along. And so, you know, the last guy who bids wins. [LB33]

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Transcriber's Office

Revenue Committee  
January 21, 2011

---

SENATOR ADAMS: Um-hum. [LB33]

JOHN HANSEN: But it, you know, there are certain communities where...that I'm more familiar with where there's about three players that you look to if something comes for sale and they're on it. You know that that land is going to be a lot higher priced than if they're not interested in it. And they're kind of interested in putting together blocks kind of in a neighborhood and it happens to be neighborhoods they grew up in. [LB33]

SENATOR CORNETT: John, what you just described is to a certain extent they're causing their own problem. Am I correct? If they're paying more, if they're getting into bidding wars over land and driving the price of land up because they want something, aren't they causing the problem? [LB33]

JOHN HANSEN: Well, they are. But also if you're going to be in the farming business over the long haul, most folks would think that you're better off to own real property than to just pay rent. And so as ag lands go up, your ability to work with your local banker and borrow money goes up with it because you have more collateral. And so there's a...in some cases it's want and in some cases it's need. And so you're working with folks that are looking at that one additional piece of land...again, I go back to what I said earlier and they're saying, you know, the last time it came up was in 1942 and it cost this much money. And it fits into our operation and, you know, all of the rest of the margin in their operation is used to be able to buy that one additional piece of ground. And so it doesn't stand alone as a cash flow, but it makes sense for that entity because they can afford to buy it. And if they can afford to buy it, if it's over the market today, it probably won't be in three years or four years. And so, you know, eventually the value is going to catch it...is the way some folks think it even though the cash flow...it certainly wouldn't be on a stand-alone basis. And so that is a hard thing to explain to folks who aren't in agriculture. It's hard for those of us in agriculture to explain as well. But that's the thinking of folks and they're saying, well, you know, I won't have another chance in my lifetime to buy this ground when it comes up. [LB33]

SENATOR CORNETT: Tell me if I'm correct here. We're anecdotally hearing that farmers are not taking out loans from banks. They're paying cash for this land. [LB33]

JOHN HANSEN: Both. I mean, some are paying cash but there's also a lot of them have some cash to start with, but there's also borrowing. [LB33]

SENATOR CORNETT: Do you see a difference like Senator Fischer had brought up in how land should be valued? Because that gets down to an area that I've looked very closely at. When you have different types of land, should they be assessed the same way? [LB33]

JOHN HANSEN: In terms of agriculture land... [LB33]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

SENATOR CORNETT: Yes. [LB33]

JOHN HANSEN: ...between irrigated, dryland? [LB33]

SENATOR CORNETT: Yes. [LB33]

JOHN HANSEN: Well, right now, it's just simply sales. And so right or wrong it's... [LB33]

SENATOR CORNETT: No, I'm asking you. [LB33]

JOHN HANSEN: ...it's sales. And I'm thinking that, you know, going back to trying to come up with some kind of an earnings capacity type formula based on production,... [LB33]

SENATOR CORNETT: That was my next question. [LB33]

JOHN HANSEN: ...land class, soils, those kinds of things is part of why I think, you know, most of us in the ag community favor something that's a more equitable kind of way to do that. And there are inequities now and... [LB33]

SENATOR CORNETT: That was leading to my next question. Do you support an income method or would you...what...do you see continuing to reduce the valuation as the means to fix the problem or do we need to look at how the system is structured? [LB33]

JOHN HANSEN: Well, if I may, the problems of how we value ag land are front and center in terms of perception and public discussion within the ag sector, in no small part because of the way that we continue to pay for K-12 education. So if we look at what the load used to be for...and I have the family books from the local school district going back to the beginning of when it was a small rural Class I when it was formed, these guys didn't spend any money. They did a lot of the work themselves. They did, you know, what they paid a teacher in a year was just terrible, but it wasn't very much money. And so that...so now given the cost of education, K-12 education, and our state's heavy reliance on property for picking up that share of the load, that...they're joined. Those issues are joined and so the way you value things gets to be more of the discussion. I suspect if we had a lot lower percentage of the total funding of K-12 education came from property, there would be a lot less interest in how we value ag land. And so they're jointly hooked in that way. [LB33]

SENATOR CORNETT: Further questions from the committee? Senator Utter. [LB33]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

SENATOR UTTER: Thank you, Senator Cornett. Mr. Hansen, it seems to me like maybe we're talking about just half of the problem here. And if I'm not mistaken, we have numerous counties, and I think Senator Louden has referred to them in the past, are up against levy limits in their counties in terms of property tax to meet the county expenses. And we dropped the price of the value of ag land by 5 percent from 75 to 70, what...the other half of that equation is assuming that counties are not wasting money, and I talk to a lot of county commissioners and they always assure me they're not wasting money, that they're operating very efficiently. How do we fix the other half of this problem? [LB33]

JOHN HANSEN: Well, of all the things that we use to pay for out of property taxes, the one that is the heavy hitter, of course, is education. So the rest of the load, if you look at it, there's more logic to, you know, if you live in a county and you have land and you need roads and all of that and bridges, there's more logic of that rationale coming, I think, back to the land--if you're an NRD district. The one that causes the biggest question mark a lot of times is community colleges and saying, well, should we be paying for a community college out of property taxes? But even that take is not high enough. The number one source of complaint goes back to the total amount of dollars that come out of property for education. That's where the things start getting out of alignment, I think, in the scope of all things. If you go to 70 percent, given the rate at which valuations are going up, they're still going to have more money. All of the entities are going to have more money because the valuations at this point at least are going up. But I don't disagree with your assessment in terms of kind of the comprehensive...the more comprehensive look at tax policy. You know, our state has struggled. This committee has struggled. It's a tough issue trying to figure out, you know, what is a more fair and equitable way to pay for all services. And generally most folks want as many or more services than they have now and they want to pay less money for it. And therein lies the problem. [LB33]

SENATOR UTTER: Thank you. [LB33]

JOHN HANSEN: Thank you. [LB33]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you, John. [LB33]

JOHN HANSEN: Thank you, Madam Chairman and members of the committee. [LB33]

JIM PAPPAS: Madam Chairman, committee members, my name is Jim Pappas, P-a-p-p-a-s. I represent Independent Cattlemen of Nebraska. And much of what I wanted to say has been said ahead of me, which I was very enlightened when the first person testified, there were very few questions, I said (makes noise), I said this is going to be a good one to testify at. But as the testifiers continued on, I decided maybe I'm

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Transcriber's Office

Revenue Committee  
January 21, 2011

---

glad I'm not last. Maybe they're all done. I will add two things for thought for you is it came up again and again, but one, you cannot compare Nebraska agriculture valuation with any of your surrounding states. You can't. It's not apples to apples. It's not even apples to oranges. There's so much difference between taxation policies, land,, and everything else in the surrounding states. Secondly, the two biggest...and Senator Fischer and Senator Cornett pointed this out, is the diversity between agriculture and agricultural land across this vast state. I mean it's tremendous and you don't realize it until you travel it. And...but the other one I think before you can ever come across a fair and equitable valuation process, two of the biggest costs to the counties that they have to deal with agriculture and taxation is education, whether it be K-12 or community colleges, or roads within counties. And I'm quite sure within the next four years, Senator Adams has been chairman of the Education Committee, will come up with a way to have the state pay for more of the educational costs, which will lower the taxes of these agricultural counties. And Senator Fischer will come up with something equitable for the roads in the next two years so everybody will be happy, singing Kum Ba Yah together, you know, in a couple of years. No questions I hope. [LB33]

SENATOR CORNETT: Seeing none, thank you, Jim. Are there further proponents? Opponents. [LB33]

JOHN BONAIUTO: Senator Cornett, members of the committee, John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, executive director Nebraska Association of School Boards. And when I visited with Senator Loudon about this bill, I did comment on the fact that I appreciated, and he stated this, that it was a simple bill, and I always like bills that I can understand, and this was one that I could understand. And there are a number of bills that try to get at this issue. And I know that it's one that has been around for a long time. And as Senator Utter said, what is the right number? And I don't know what the right number is. I come before you with the concern that funding education is not getting any easier. And we appreciate the fact that having members of this committee on the Education Committee and the interrelationship of the decisions you make and how it impacts the state aid formula and funding schools, those things are critical. And so your thoughtful approach is greatly appreciated, and as we look at this...I know Senator Adams has some bills in that would take a different approach to how schools can access their valuation. And that will be one that will factor in and I know that one of the bills talks about zero budget growth. And I think that when you adjust and we look at ag values and as money in the state aid formula becomes tighter, I think we're going to have more school districts that are nonequalized districts. And they're going to have to depend on their tax base for their funding. I think that one of the things that you will talk a lot about as a body later in this session is where the state aid money goes through the formula and how do you get money to all the districts that need to have state aid? So I think I'll probably wear out my welcome here because there will be a number of bills that deal with this issue, and you'll see more of me in the future. So with that, I'll conclude my testimony. [LB33]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

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SENATOR CORNETT: John, let me ask you, and I know you're representing schools. Is there a better way to look at a valuation of ag land? [LB33]

JOHN BONAIUTO: Senator, I'm sorry that I don't have the answer to that question. And... [LB33]

SENATOR CORNETT: Because they are so intertwined. [LB33]

JOHN BONAIUTO: They are. [LB33]

SENATOR CORNETT: But at the same time if we reduce the valuation, you really aren't solving the problem. [LB33]

JOHN BONAIUTO: No. It...it is intertwined and I don't know that there is a right answer. I know that when Senator Adams visits with us he talks about balance and trying to create a balance. And I know that's one of the challenges that you as a committee...as Revenue Committee and the Education Committee and this body as a whole are going to try to do is create some kind of a balance. [LB33]

SENATOR CORNETT: So maybe...let's reverse that question. Instead of a better way to value ag land, is there a better way to fund education? [LB33]

JOHN BONAIUTO: Well, there...it becomes a money issue and we're tied to property. We're tied to land. And if the state...and I know going back a lot of years sitting at this table when the state said we think that if we can control the levy, if we can move more districts into equalization if the state could pay for more education. We will all be better off. And there was that direct relationship between the more money the state could put through the state aid formula and get to schools in that way then the levies were able to be ratcheted down. If we go back 15 or so years ago, the late '90s, the levies were all over the place. And the Revenue Committee worked very hard and said, we're going to start at \$1.10 and then we're going to go to \$1.05 and then we're going to go to \$1. But that requires the state to have a lot more resources unfortunately we don't have. [LB33]

SENATOR CORNETT: Questions from the committee? Senator Fischer. [LB33]

SENATOR FISCHER: Thank you, Senator Cornett. Thank you, Dr. Bonaiuto, for being here. Maybe I wasn't listening closely enough, but I'm wondering why NASB is opposed to the bill. Are you opposed to the bill because school districts in the areas of the state that have...that are funded through mainly ag land, property owners, might see a decrease and with lids and everything couldn't access that valuation of the land? Are you opposed to the bill because of the possible shifts in state aid to education then to districts in increasing numbers that I believe will becoming nonequalized districts? Or for

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Transcriber's Office

Revenue Committee  
January 21, 2011

---

another reason? Why are you opposed? [LB33]

JOHN BONAIUTO: We are...you've touched on some of the concern we have. I look at the number of bills and not knowing which bills are going to be the right approach, I think that adjusting valuation to me is a drastic or a big step. And not that I'm wild about zero budget growth for school districts, but I know that there are other ways to try to get at this issue that...I guess one of my real concerns is having the cumulative effect of working from both directions and having us caught in the middle as it impacts the state aid distribution and the formula. [LB33]

SENATOR FISCHER: As a former long-time school board member myself, I've heard a lot of those concerns over the years. Being from rural Nebraska, however, your comment that levies were all over the place in the '90s, you know, something had to be done. We addressed that. The goal was to you said move more districts into equalization. I would submit to you that at this point in time we are seeing more and more and more districts move and become unequalized districts, especially in rural Nebraska, especially in grass counties such as the 13 I represent. And I would also submit that Senator Louden's bill that's before us, while I support it, I don't think it's going to help because my counties, the revenue comes from ag land, comes from grassland. We don't have a lot of commercial. We don't have a lot of residential. So no matter where the levies are, no matter what percentage we put on valuations, it's the same people that are going to be paying the taxes and supporting districts. My concern is that out of my 21 school districts, some are nonequalized now, I believe this body is just pushing more and more districts to become nonequalized districts. And so what do you want us to do? You know, you're opposed to this for ag land which, as I said, I don't think it solves the problem. We heard the Cattlemen say it's a Band-aid. You know, what do you want us to do? [LB33]

JOHN BONAIUTO: I wish I had the answer to your question, Senator, and it is a tough one. But I do know and I agree with you wholeheartedly. Your districts are going to need...their tax base is the one stable thing they have to work with. And when I talk to school board members, it just drives them crazy that they're on the state aid roller coaster. And it's not because Senator Adams isn't working very hard. [LB33]

SENATOR FISCHER: My districts have been thrown off the state aid roller coaster. [LB33]

JOHN BONAIUTO: Yeah. And so...and I know that Senator Adams as he looks at the zero budget growth issue for your district and other districts that there's another worry that the nonequalized districts are going to say, great. Leave us alone because we can do what we need to do and we don't want to be bothered. So there will be other things done to try to keep the nonequalized districts from moving away from those that...depending on state dollars. [LB33]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

SENATOR FISCHER: I think, you know, for I guess to get everything out in the public, I hired this guy... [LB33]

JOHN BONAIUTO: Yeah (laugh). [LB33]

SENATOR FISCHER: ...when I was president or when I was on the board... [LB33]

JOHN BONAIUTO: Yes. [LB33]

SENATOR FISCHER: ...the school boards association. And we've had these discussions... [LB33]

JOHN BONAIUTO: Absolutely. [LB33]

SENATOR FISCHER: ...for many, many years. I think we're past...I think we moved on in rural Nebraska. We used to say leave us alone. Now we're saying, you know, this isn't fair. Let's talk about equity. Let's talk about what's fair across the state. Or do we determine that by 25 votes here in this body? That's what I hear across rural Nebraska is that...and even in urban Nebraska to tell you the truth. I've spoken in the metro area a number of times on this. I think everyone is cynical and they determine that, do we care for kids or is it bottom line and it's 25 votes to see how much money you can get? [LB33]

JOHN BONAIUTO: It's very, very difficult. [LB33]

SENATOR FISCHER: I'm sorry. I'm on my soapbox today, Dr. Bonaiuto. [LB33]

JOHN BONAIUTO: But those are...difficult discussion. It comes down to dollars and cents. How much can we afford to pay for education? [LB33]

SENATOR FISCHER: Thank you. [LB33]

JOHN BONAIUTO: Thank you, Senator. [LB33]

SENATOR UTTER: Further questions for...? Hearing none, John, I guess you're dismissed. Thank you. [LB33]

JOHN BONAIUTO: Thank you, Senator. [LB33]

SENATOR UTTER: Thanks for your testimony. Next opponent. Good afternoon and welcome to Revenue. [LB33]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

JON EDWARDS: Good afternoon, Senators. My name is Jon Edwards, J-o-n E-d-w-a-r-d-s, and I'm here today representing Nebraska Association of County Officials. We are here today in opposition to LB33. Certainly there's been a lot of testimony today, and we can certainly appreciate the arguments made in favor of this bill, and we do understand the concerns out there in most instances. But I can tell you that our board did take a look at this bill, had some discussion about it, and voted unanimously to oppose this particular change. And I think really from our board's perspective they would oppose this just in the broad sense of the stability of taxation and for counties in particular. As it currently is and as we look forward, property tax is pretty much it for us in order to provide the services that are mandated at the federal level, mandated from the state level, services required as mandated by our...the public. And so at some point in time we have to be careful about and understand that there has to be some long-term stability there. And that we would worry about moving and making adjustments on percentages based on points in time and the different proportions that are shifting given points in time, in different economic conditions, and so forth. So I won't take any unnecessary time of the committee, but we are opposed to this particular change proposed. Thanks. [LB33]

SENATOR UTTER: Thank you. Questions for Mr. Edwards? Senator Louden. [LB33]

SENATOR LOUDEN: Yes. Thank you, Senator Utter. Jon, would you agree that the counties' valuations over the last three years that are primarily ag land, their valuations have increased over the last three years? [LB33]

JON EDWARDS: Yeah. And I can agree with that basically speaking, and I've heard, you know, certainly data in front of me that indicates exactly what that is. I couldn't tell you but I know certainly there is information that in predominantly rural counties there has been an increase in revenue based on...increase in the valuations. [LB33]

SENATOR LOUDEN: Now having done that, has their mill levies decreased, the counties' mill levies? [LB33]

JON EDWARDS: There are examples of that, yes, there certainly are. And I think actually I was having a conversation this morning I believe in Fillmore County there was some talk of a significant decrease in the levy this year based on the fact that the revenue is up to a certain degree. So I think there are examples of that. Is that across the board? Probably not. But again, I don't have the data right in front of me to know exactly what that would be, but there are examples of the levy going down, yeah. [LB33]

SENATOR LOUDEN: And if we would get another 7 or 8 percent or 10 percent increase next year in ag land values, then they would be about where they are right now? [LB33]

JON EDWARDS: If that were the case, that's possible, sure. When you look at year

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Transcriber's Office

Revenue Committee  
January 21, 2011

---

over year, that's correct. What it would look like, 10, 15, 20 years from now, I don't know. [LB33]

SENATOR LOUDEN: Well, it would be somebody else worrying about it then. [LB33]

JON EDWARDS: Yes, but that's what we're here to try to do is evaluate things in that broad spectrum. [LB33]

SENATOR LOUDEN: We're trying to get these folks through at the present time. [LB33]

JON EDWARDS: I understand. [LB33]

SENATOR LOUDEN: We're not worrying about that. [LB33]

JON EDWARDS: I understand it's not an easy issue. I absolutely understand that. And like I said, we can certainly appreciate those arguments. But just from the standpoint of we're locked into property tax. We've got to worry about that stability as we think out over the long term so. [LB33]

SENATOR LOUDEN: Okay. Thank you. [LB33]

JON EDWARDS: Sure. [LB33]

SENATOR UTTER: Other questions for Mr. Edwards? Seeing none... [LB33]

JON EDWARDS: Thank you very much. [LB33]

SENATOR UTTER: ...thank you for your testimony. Are there further opponents? Is there anyone that would like to testify in a neutral capacity? Seeing none, Senator Louden, you're free to close. [LB33]

SENATOR LOUDEN: Well, thank you, Senator Utter and members of the committee, for your attention to this. And also I want to thank those people that testified, both for and against this because all kinds of discussion is good discussion. There was some things that I might note that, as I said, I've been at this property tax business ever since I was 16 years old so I've had quite a little experience with it. And as I've said before, at that time I was 16 and I was the one that drove a bunch of guys up to Rushville to protest their valuation on their property. And at that time their taxable value was 35 percent, and they were up to protest the value at that time. So this percentage has been all over. And I can remember a few years ago I think for a while it was even at 100 percent when they had some problems with the railroads and the railroads I think brought a lawsuit and so you'd have to ask Hansen or somebody that's probably been a little more on to this, but at one time there and then we finally moved it back down to 80 percent and

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Transcriber's Office

Revenue Committee  
January 21, 2011

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then it's worked its way all around. Part of what's driving it is land prices up and it's an investment out here at the present time. Money isn't worth anything if you have money to go put out on loan or buy a CD or something. We have a banker there that's stealing your money whenever you take it into him. He'll give you about three-quarters of a percent and then he'll turn around and loan it out at 5 or 6, you know. I mean he's not buying ranchland because he doesn't have to. But nonetheless, that's probably what's been driving up these prices of the land. And whether it's investments that farmers and ranchers have the money themselves or whether it's outside people coming in, either way we have in Grant County here this last two or three years there is a rancher that bought neighboring land that he paid \$477 an acre for ranchland I think and evidently had the money. And this wasn't 160 or something like that. I think one was over a 2,000-acre purchase and the other one was over a 5,000-acre purchase so it was big bucks. And he probably had the money and it was probably sitting in Senator Utter's bank and drawing mold and so I suppose he decided to put it in land. And I mean this is what's driving a lot of it up. When you talk about what's causing this, I guess, and I know the discussion got around to schools, and I've always said if you can find a way to fund the school system besides property tax all of these discussions would go away. That's part of it. I don't know how many of you can remember when we had free high school tuition. You had your free high school districts and you paid your tuition into a town district someplace to put those kids in high school. And as you paid to get those kids through four years of high school, then you didn't have to pay for them anymore. And as you lost population in the rural areas, your property tax or your free high school tuition went down. We had our local K-12 schools or K-8 schools, but that was how it worked. And then when we come up with school consolidation, then we put all of that ag land--and that hasn't been that many years back--if I remember, it was there in the late '80s I think when they had to consolidate that free high school tuition districts into a K-12 districts and that's when we came up with Class VI districts or we could come up with affiliated districts. And that's what brought that about. You had to have your ag land in with the high school district. And from then on is when we've had trouble with the valuations on our property tax on taxes. Now is there ways it can be changed? Probably because when state aid to education first came out, every student got a certain dollar amount. And I can't remember whether it was either \$1,800 or \$2,200 or something like that. And that lasted maybe perhaps two years. And then somebody got the idea that these rich districts were getting so much more money and our poor districts such as Omaha wasn't getting enough money and that's when you came up with this formula that you have now. And if you had enough valuation, then you didn't receive any state aid because you were considered a rich district. And therein came the problem with what you have now is some of these districts increasing their needs beyond belief because there was never anything in there to decide what was needs and how high they should go. As you've noticed, we have districts that have lobbyists. We have districts that pay superintendents large sums of money and all kinds of issues. Nowadays most of these K-12 districts the teachers have to have aides. All of that was a part of their needs. And if they were an equalized district, that didn't cost the local

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

taxpayer any more than that \$1.05. After that, it cost the state of Nebraska. So therein was when our problems multiplied over the valuation and we've been trying to assess that ever since but nobody has really taken the matter on. And probably the problem with our valuations in a lot of this is how we fund our school system. If we went back to dividing up the \$890 million or whatever it is and divide it up among the students of Nebraska and put it out, you can bet there would probably be some assistants that was fired and some superintendents might not get paid as much because anything above that then would have to come out of property tax. So that is some of the history that I've noticed as I've been around on some of this. As Senator Fischer has said, she don't think it's going to do much good, and I probably agree with her. This isn't anything that's going to solve any problems. As I said before, all it's going to do is dull the knife. It won't stop the bleeding. All we're trying to do is shift it back from a little bit of fairness of what we had. We had hearings here two years ago all over the state of Nebraska and that's all we heard was property tax and the problems. And last year there wasn't a single bill introduced that addressed any of it. And I decided this year we would try to do something. This is the something. It isn't much, but it's more than what anybody has done in the last couple of years. With that, I thank you for your attention. [LB33]

SENATOR UTTER: Thank you, Senator Louden. And by the way, don't wait around for a contract to do commercials for me--probably won't hire you. [LB33]

SENATOR LOUDEN: (Laugh) Bankers aren't always my favorite people. [LB33]

SENATOR UTTER: I got that impression. [LB33]

SENATOR LOUDEN: Today anyway. [LB33]

SENATOR UTTER: I guess, Senator, there's no need to get up. I think maybe you can open on LB69. [LB69]

SENATOR LOUDEN: Good afternoon, Senator Utter and members of the Revenue Committee. My name is LeRoy Louden and that's spelled L-e-R-o-y L-o-u-d-e-n, and I represent District 49. I've introduced LB69 to address a problem that arises whenever there is a revaluation of agricultural land. The question always arises, does consideration in the guidelines mean that the guidelines have to be used or can they be overlooked by someone else or by someone's interpretation of what sales should be made...what sales should make up a sales roster? There have been guidelines in statute 77-1371 for many years, probably since in the '80s, to be considered. The question arises, does considered mean that they have to be used or can they be overlooked in favor of someone else's or someone's interpretation? This has been an item of contention whenever anyone goes before the board of equalization to protest their revaluation of agriculture. LB69 sets out in statute that the 12 guidelines define what will not constitute a sale to be used for comparison. And as you've noticed in the

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Revenue Committee  
January 21, 2011

---

bill, they are listed in there and we mostly took out the "whithers" and put in the "shalls." And also as we've gotten a fiscal note on that, the Fiscal Office, and it was brought from the Department of Revenue I think on that one part about any 40 acres, I think it's guideline 7. And I was always under the impression...this was written in the sections of statute that dealt with agricultural land, they say it was also include residential and commercial and everything else in 40 acres. And I said, well, that's funny. It's been in there all these years and nobody...if you bought a house and you wanted to buy a rental about three blocks away why somebody didn't use that as part of the issue because it was less than 40 acres and it was probably within a mile of where they lived. So with that in mind, I will probably do some work on that and work with the Department of Revenue because that didn't come up until here lately that they had a problem with those two issues. But with that, if there's any other questions, I would be willing to answer them on this. [LB69]

SENATOR UTTER: Questions for Senator Louden? I see none, Senator Louden. [LB69]

SENATOR LOUDEN: Okay. [LB69]

SENATOR UTTER: We'll now open the hearing for those who are proponents of this bill. [LB69]

PETE McClymont: Vice Chairman Utter, members of the Revenue Committee, for the record my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I am a registered lobbyist for the membership of the Nebraska Cattlemen, and I'm here today in support of Senator Louden's LB69. We have talked about this issue quite a bit within our association. And obviously it's a concern in talking to one of your colleagues, Senator Hansen, when he was president of the Nebraska Cattlemen. This was one thing that bothered him greatly of where we are a good value in compared to the western half of the United States, especially in the front range where people are cashing in with the expansion of Colorado or Denver, Colorado Springs and moving to western Kansas and western Nebraska. We're obviously a state that in relative comparison to land values people are able to dollar up. In so doing, they have X amount of dollars, as you well know, to what Senator Louden explained and so that has brought in money which is great, but nonetheless people pay more than what their neighbors would do if they lived here a long time. So it's something that in our membership's opinion would give a fair and more even snapshot of what sales are. So we would wholeheartedly agree with Senator Louden in his attempt here in LB69. And with that, I will conclude my testimony. [LB69]

SENATOR UTTER: Thank you, Pete. Questions for Mr. McClymont? Seeing none, Pete, let me just ask one question. The 12 guidelines that are listed in here, do you have any heartburn at all with any of them, see any problems with any of them as far as you're concerned? [LB69]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

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PETE McCLYMONT: No. No, sir, Senator. [LB69]

SENATOR UTTER: Thank you. If not, thank you. [LB69]

PETE McCLYMONT: Thank you. [LB69]

SENATOR UTTER: Thanks for your testimony. Next proponent. [LB69]

NATHAN BARTELS: Good afternoon. Again, Senator Cornett and members of the Revenue Committee, my name is Nathan Bartels, N-a-t-h-a-n B-a-r-t-e-l-s. I'm a member of Johnson County Farm Bureau. I again come before you today on behalf of Nebraska Farm Bureau Federation. As I stated in my previous testimony on LB33, our members are concerned with outside factors in the agricultural land markets influencing assessed values. In particular, we continually hear concerns with Section 1031 exchanges and the purchases of land for recreation or hunting and the influences these transactions may have. Now I'll state our policy from Nebraska Farm Bureau Federation. This is our policy. Nebraska Farm Bureau Federation's policy maintains that Section 1031 exchanges should not be used for valuation purposes nor should ag land that is sold with the intention of the primary use being changed from agriculture purposes to hunting and recreation purposes or land where the sale price is influenced by market forces other than agriculture, such as preservation. Because of our position on these topics, we are supportive of LB69. Thank you and I'd be happy to answer any questions you might have. [LB69]

SENATOR UTTER: Questions? Senator Adams. [LB69]

SENATOR ADAMS: So as I read this and I listen to your testimony, then if it's farmer versus farmer at the local sale that drives it up to \$8,100 an acre, it is what it is? [LB69]

NATHAN BARTELS: That's the way I understand it. [LB69]

SENATOR ADAMS: Okay. Thank you. [LB69]

SENATOR UTTER: Further questions for Mr. Bartels? Mr. Bartels, I have just one question. Looking at the 1031 exchanges, how should the value of the land that was purchased at an unreasonably high level for 1031 exchanges be taxed? Should that valuation be the price they paid for it or should it also back down to the normal ag level of the prices that farmer-to-farmer sales would be? [LB69]

NATHAN BARTELS: I would assume based on our policy that it should be valued at 100 percent. You mean land that is purchased...are you talking about land that has come ag to ag 1031 exchanges? [LB69]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

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SENATOR UTTER: I'm talking about somebody that sold land on the edge of Lincoln and comes out to Hastings and pays an outrageous price for a piece of land because they're up against the time limit on the 1031 exchange. And...but if in the ordinary course of business if the 1031 exchange buyer was not involved in that, why, then how would that...how do you feel like the valuation should be on that piece of property that the person that made the 1031 exchange paid for? Should it be at the level he paid for it or should it be at the what we call a normalized level? [LB69]

NATHAN BARTELS: But he actually completed the purchase, the 1031 exchange participant completed the purchase. [LB69]

SENATOR UTTER: Yes. [LB69]

NATHAN BARTELS: And...I have to look through our policy. It's being changed from agriculture to hunting and recreation. But you're saying the land is going to stay agriculture. [LB69]

SENATOR UTTER: Well, we're not going to use that value under the guidelines. We're not using that 1031 value. [LB69]

NATHAN BARTELS: It's going to be excluded for valuation purposes. [LB69]

SENATOR UTTER: For valuation purposes as far as the assessor is concerned. [LB69]

NATHAN BARTELS: How should it be valued? I would assume at 100 percent. [LB69]

SENATOR UTTER: Mr. Bartels, one additional question. As you look down through the...as you look down through the 12 guidelines, are any of those guidelines give you any trouble at all? Are you in agreement with all of them? [LB69]

NATHAN BARTELS: Yeah. We have no problem with them. [LB69]

SENATOR UTTER: Thank you. Thank you for your testimony. [LB69]

NATHAN BARTELS: Thank you. [LB69]

SENATOR UTTER: Mr. Hansen, proceed. [LB69]

JOHN HANSEN: Senator Utter, members of the committee, for the record my name is John K. Hansen, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union and also am their lobbyist. We are in support of LB69. It seems we are comfortable with the 12 provisions and we think that having them more uniformly applied in a more

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

consistent basis would be a good thing. With that, I'll close my testimony and answer any questions if you have any. [LB69]

SENATOR UTTER: Thanks, John. Any questions for Mr. Hansen? Senator Adams. [LB69]

SENATOR ADAMS: John, as you look at all of these, let me ask you an aggregate question. If we did this, how much difference do we make? [LB69]

JOHN HANSEN: I think you make a little difference. It really kind of depends on the county and how they go at it a little bit. As you know, 1031 sales are a constant complaint. And you know, the perception is and rightly so that this is hot money that's got to get dumped in a short amount of time or, you know, they lose the tax benefit. And so they're aggressive buyers. They're much more aggressive buyers than they would be normally so you've had some kind of external tax base reason which causes them to be more aggressive bidders. So those kinds of sales, especially in a thinly traded market, disproportionately impact the valuations for everybody. And so in part it goes back to the business of perception of fairness. And so, you know, the long-time landowners view those kinds of sales as not representative and unfair. And so in terms of trying to get to a place where folks perceive it to be more fair, I think that this bill is a good start. [LB69]

SENATOR UTTER: Senator Pirsch. [LB69]

SENATOR PIRSCH: Yeah. Just three quick questions. I think one of the testifiers from the prior bill, LB33, had testified that those Section 1031s were probably the fifth or sixth biggest factor in terms of driving up costs of ag land. Would you agree with that? Is it a prime factor in these valuations going up? [LB69]

JOHN HANSEN: I have no evidence to the contrary, and the number seems about right, I would guess, with... [LB69]

SENATOR PIRSCH: Anecdotally you kind of agree with that. [LB33]

JOHN HANSEN: ...yes, with what I hear. [LB33]

SENATOR PIRSCH: Okay. [LB33]

JOHN HANSEN: But I do get phone calls from folks who have a rash of 1031 sales and... [LB33]

SENATOR PIRSCH: Okay. And are most of these 1031 sales, are these kind of urban Nebraskans who are Omaha/Lincoln or are these out of state? [LB69]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

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JOHN HANSEN: Most of the ones I'm familiar with, not all, but a lot of them are urban sprawl issues where guys are...you know, we used to have a pretty substantial membership in Douglas County. And every one of those family members are out of agriculture. That whole area is under houses. And so, you know, they either completely got out of the business or a lot of them relocated elsewhere. But the amount of dollars they got per acre for that ground was very substantial. And they went out and were able to buy land in other communities. [LB69]

SENATOR PIRSCH: Last question. With respect to the previous testifier had indicated he believes that the answer is to put then, for these types of 1031 newcomers so to speak, a 100 percent valuation on those types of land. Are there any types of legal or constitutional types of concerns that may arise then with that kind of great difference in the valuation processes if we were to go with that method? [LB69]

JOHN HANSEN: It would seem that there might be. And I haven't given it...the issue a great deal of thought but my thought is that, you know, if you're throwing out those kinds of examples as not a legitimate basis to value that class of property in that area, there would be a good reason to not use the sale value if it was not appropriate then on that particular property, let it sit in the rest of the pool at the same rate everybody else does. [LB69]

SENATOR PIRSCH: Thank you. [LB69]

SENATOR UTTER: Further questions for Mr. Hansen? John, thank you very much for your testimony. [LB69]

JOHN HANSEN: And thank you very much. [LB69]

SENATOR UTTER: Any further proponents? Are there opponents of LB69? Good afternoon, welcome. [LB69]

MICHAEL GOODWILLIE: Good afternoon, Senator Utter, members of the committee. My name is Michael, M-i-c-h-a-e-l Goodwillie, G-o-o-d-w-i-l-l-i-e. I am deputy assessor in Douglas County, Nebraska, and am speaking in opposition to LB69. The first question that might be asked is, well, why does somebody from an urban county have an interest in this bill? Well, I...given the discussion about ag land values. Well, the bill is written in terms of the assessor may not consider...it's not written in terms of ag land sales only. And so I believe if this bill passed it would apply to the use of the sales comparison approach for both residential and commercial property. And I think that runs you into a difficulty in terms of mass appraisal practice. Nebraska law defines actual value as the market value of real property in the ordinary course of trade. It may be determined using professionally accepted mass appraisal methods, including a sales

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

comparison approach, an income approach, and a cost approach. And it goes on to say that actual value is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market wherein an arm's length transaction between a willing buyer and willing seller, both of whom are knowledgeable concerning all of the uses to which the real property is adapted. I think if you automatically say these dozen types of sales are beyond the purview of the county assessor, regardless of the class of property, I think what you are saying is, in 77-112, assessors, you need to value property using professionally accepted mass appraisal techniques. And then you're turning around in 77-1371 and saying, not so fast, my friend. You can't use these professionally accepted mass appraisal techniques. The think tank for mass appraisal is an organization called the International Association of Assessing Officials. And they have written standards with respect to the verification and use of comparable sales. And their official stance is sort of if you're going to exclude sales, the main reason you should be excluding them is not because of what the price might necessarily be. You should be excluding them because they're not arm's length transactions. Now in looking at some of the types of sales that would be excluded in LB69, the one that immediately leaped off the page at me in a more urban county was any sale in which zoning affected the sale price of the property. Okay? The first step in assessing real property is determining its highest and best use. And one of the factors involved in determining the highest and best use of a property is what uses of that property are legally permissible? And that means zoning. So does this change, does this shall not for assessors, does it mean then that an assessor cannot look at factors involving zoning in terms of whether it's a comparable sale in commercial property? I don't know if that's what Senator Loudon meant, but I think that's what it says. Similarly, there's the discussion of a property that's been substantially improved since the time of sale. Well, I don't think it would be comparable to...that sale price would be comparable to compare it to other properties that have a similar improvement to what has been added. It might well be comparable, however, to unimproved properties that need to be valued. I guess my thought is, and I listened to the discussion from the agricultural people here today, if the Legislature wants to adopt a public policy of assessing agricultural land at some lesser amount, whether it's 70 percent or 65 percent, I think that's fine, you know, if that's the public policy they want to pursue. I don't think it's probably a very good idea to essentially say to assessors, here is a universe of your marketplace that you cannot look at in trying to achieve actual value. So from a technical standpoint, if the idea is to do something about agricultural values, I'm not sure the law of unintended consequences wouldn't become a big problem with this particular bill. And with that, I would entertain any questions that you have. Oh, let me address something and it may have been the last bill that was discussed, I know there was discussion of nonagricultural influences--recreation or development--and the prices folks would pay. I think Senator Fischer hit on this, but I'd like to elaborate on it further because that sounds like a real good candidate for special valuation, more popularly known as greenbelt. And if that property continues to be used for agricultural purposes, it should be valued, if it's receiving special valuation, it should be valued at 75 percent of its

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

---

market value for agricultural purposes only, meaning in that circumstance the assessor can say, well, that's very well and fine, you doctors from Denver that like to hunt ducks, who bought this land. I don't care if you paid \$5,000 an acre for it. If it's still being continue...if it's still continued to use as agricultural property, I'm going to value it in a comparable fashion with other purely agricultural properties in my community. So, you know, I think people look at the sale price and they think, wow, they have to compare it. There's some discretion there for the assessor to use. The same goes for 1031 exchanges. There is nothing that says an assessor can't say, well, given my universe of sales transactions, if that guy that made a 1031 exchange, if he paid some exorbitant amount over and above what my other ag sales for similar properties are selling for, I can treat that as an outlier. I should look at it. Maybe that's a precursor where my market is going to go at some point. If you're a county that has 20 or 25 percent of 1031 exchanges, you know, there's an argument to be made that that's part of your market that you have to consider. But if it's an isolated transaction and it's significantly lower or higher, rather, than what other folks are paying for the same property, I'm not sure you're bound to necessarily put the value of that property at what that was. In fact, I would suggest that if all you're doing is moving the value of particular property to its sale price you're chasing sales and you've got some severe problems in terms of statutory compliance. So with that, I would entertain any questions that you might have. [LB69]

SENATOR UTTER: Thank you, Mr. Goodwillie. Questions? Senator Adams. [LB69]

SENATOR ADAMS: Thank you. Just as a point on your expertise, let's assume that we go in this direction. I'm going to go with the zoning issue. [LB69]

MICHAEL GOODWILLIE: Um-hum. [LB69]

SENATOR ADAMS: Would doing this be cleaner for you than trying to deal with what is and is not greenbelt? [LB69]

MICHAEL GOODWILLIE: If cleaner means you can't consider any transactions in which somebody might have contemplated the zoning before they bought it, I'm not sure you wouldn't exclude every commercial sale you had. I mean if I'm going to buy commercial property, I guess one of the things I'd like to know or I would consider is, how is that parcel zoned?--because that describes the universal purposes to which I can put that property. So I think what you might actually be doing is killing the use of the sales comparison method because none of these sales can be considered by the assessor. [LB69]

SENATOR ADAMS: Do you have trouble with greenbelt in Douglas County? [LB69]

MICHAEL GOODWILLIE: No. In fact, all our ag parcels are in greenbelt. We don't believe that we have any sales of agricultural land that are not influenced primarily by

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

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development purposes. And so when we value agricultural land, basically we look at sales in counties that do not have as much in the way of developmental influence. We borrow sales from other more rural counties throughout the state. [LB69]

SENATOR ADAMS: You don't have any trouble on distinguishing on a, let's say a two-acre or five-acre plot where the house has just been built to kind of get out of the edge of the city and, well, I'm baling hay over here and... [LB69]

MICHAEL GOODWILLIE: There are always issues with respect to what "predominantly used for agriculture" means. And... [LB69]

SENATOR ADAMS: Okay. So you have those same issues then. [LB69]

MICHAEL GOODWILLIE: Well, sure. I mean there's always going to be parcels that are relatively small and you can make the argument that, yeah, there's some kind of crop on it or apples or whatever it happens to be, and that's a judgment call. But I think that's what you pay your assessor to do. [LB69]

SENATOR UTTER: Other questions for Mr. Goodwillie? Senator Louden. [LB69]

SENATOR LOUDEN: Yeah. Thank you, Senator Utter. As you mentioned, have you used any of these guidelines when you do any of your valuations or for your comparable sales? [LB69]

MICHAEL GOODWILLIE: I think as a practical matter, yeah, you probably do because some of these... [LB69]

SENATOR LOUDEN: But I say do you in Douglas County use them or do you use these from the, what is it, international association? [LB69]

MICHAEL GOODWILLIE: I think they're kind of intertwined, Senator. For example, with commercial property, of course you would consider zoning as opposed to...in determining whether it's a comparable sale. And the IAAO echoes that kind of sentiment, that if it's an arm's length transaction you need to analyze it and decide what it means in your market. So I guess the two things sort of reinforce each other. I don't think it's necessarily either or. [LB69]

SENATOR LOUDEN: Now do you think then the sales of school lands should be used for comparable sales? [LB69]

MICHAEL GOODWILLIE: I will answer your question with a question. Was it exposed to the marketplace? [LB69]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

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SENATOR LOUDEN: Well, yes, when the school put...the Board of Educational Lands and Funds put that land up for sale, yes, it's... [LB69]

MICHAEL GOODWILLIE: Okay. Do people bid on it? [LB69]

SENATOR LOUDEN: Yes. Well, they set a certain minimum bid, see,... [LB69]

MICHAEL GOODWILLIE: Okay. [LB69]

SENATOR LOUDEN: ...and it goes from there. But I mean it either goes at that price or it isn't sold at all. [LB69]

MICHAEL GOODWILLIE: You know, I think it could in the sense that you really do have willing buyers that are competing for that property. [LB69]

SENATOR LOUDEN: Now if that person that buys that property is considered nearby property within a mile of property they already own, should that be used as a comparable sale? [LB69]

MICHAEL GOODWILLIE: I think that's a factor an assessor may want to look at when he sets the value or she sets the value. What I heard was some testimony maybe on your earlier bill that one county has three guys that compete for everything that comes up that's relatively near their property. I suppose if they compete for a parcel that's within a mile of some portion of all of their property, I'm not sure that isn't their...I mean I'm not sure that isn't a market-based transaction because you have willing buyers competing for the property. The answer is, I think it would sort of depend on what your market is doing and what the circumstances are surrounding the sale. [LB69]

SENATOR LOUDEN: Then in other words, you feel that these guidelines and also the ones from your association are more or less a judgment call of the assessor. [LB69]

MICHAEL GOODWILLIE: I think any valuation determination is a judgment call on the assessor's opinion of value. What I would be opposed to is saying here's this segment of your market that you absolutely cannot look at no matter what. [LB69]

SENATOR LOUDEN: Thank you. [LB69]

SENATOR UTTER: Other questions for Mr. Goodwillie? If not, thank you very much for your testimony. [LB69]

MICHAEL GOODWILLIE: Thank you, Senator, members of the committee. [LB69]

JON EDWARDS: Good afternoon again, Senators. My name is Jon Edwards, J-o-n

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Transcriber's Office

Revenue Committee  
January 21, 2011

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E-d-w-a-r-d-s, and I'm here representing Nebraska Association of County Officials. We are here in opposition to LB69. Our board took a position of opposition based on essentially the testimony you just heard and our assessors and their concerns about this language within this bill in that Nebraska is a mass appraisal state when it comes to the valuation of property. And these elements seem to be a very significant part of that process. Therefore, there are some great concerns about the ability to properly value property within the state of Nebraska if we're to institute this particular change. And with that, I'll conclude my testimony. [LB69]

SENATOR UTTER: Thank you, Mr. Edwards. Questions for Mr. Edwards? Seeing none, thank you very much for your testimony. [LB69]

JON EDWARDS: Thank you. [LB69]

SENATOR UTTER: Are there further opponents to LB69? Is there anyone that wishes to testify in a neutral capacity? Seeing none, Senator Louden, you're free to close. [LB69]

SENATOR LOUDEN: Well, thank you, Senator Utter and members of the committee. And it's always fun to have an afternoon of fun, isn't it, I guess? Anyway, as I mentioned in my opening statement, that these guidelines have been a bone of contention when you come to revaluation your property. And as you see, the people that reevaluate the property that work in that, the county assessors or so, it still is. They don't want to do it. And that was the reason I brought this bill forward. We had arguments between our county commissioners, our county assessors on what you're going to use to value property. And like in Sheridan County, I suppose in any one year there's probably somewhere between .25 of a percent of land that's traded in that county, some 600,000 acres, but yet they try and use this little narrow piece to value the whole county about every two or three years or whatever it is. So that was the reason I brought this bill forward. At the time as we were doing it, my understanding was this was mostly pertained to ag land. Now as the man said he's worried about it in Douglas County because he thinks it goes into your commercial property and your residential. So that will be looked at before we bring this bill forward for any kind of an Exec Session. If there's any work that has to be done on it, we will work at it at that time. But as we've looked through this, we've had these problems all the time. Small acreages, as our sale roster was last year when we had our revaluation in Sheridan County, sales of school lands was used. Some of the railroad property that was sold was used, all these types of issues were brought up. And then there's 1031s, and those lately haven't been that big of a deal because the price of land has gotten considerably higher, but we had a lot of problems from 1031s from the front range over there. People were coming over from Colorado that had, well, ranchland outside of Denver and some of those places and they actually sold that by the foot. And they bought Sandhill land by the acre. I mean that was the difference in the price. And they a lot of times had money left over. Well, a

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 21, 2011

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lot of those people over there...I knew some of those people when they went out there, their grandparents or somebody homesteaded or they went out there, they had probably \$2.50 an acre in that land and turn around and sold it for \$500 an acre. And so there was a huge tax bill. So they were rushing around wherever they could to try to find this 1031 deferred tax sale. And as you point out, they don't save any tax and it's what is called as a deferred tax. They just bring that valuation in that property they had over into Nebraska with that valuation. There was some people that I think probably wished they had at that time took their money down to Edward Jones and had him take care of it because they could have probably slept a lot better because a lot of them it seemed to be what was kind of interesting was people that had about...that sold out over there for about a half million dollars or so. And with that type of money at that time, they could come over into our area and buy about a ranch of about 4,000 acres. Well, all they did was buy themselves a job because it wasn't big enough to hire somebody to run and it wasn't...it was too small to just lease out or something. So they consequently owned that, and there was some of them that sold out over a period of years. They did quite well because it appreciated in value. But nonetheless, that was one of the major factors for several years. Here in the last two or three years that hasn't been that big of a factor. We've had more that's just plainly outside investment money coming in from people that had big bucks that made it someplace else and they're trying to get out of the stock market. So with that, I appreciate the attention that you've given today. I appreciate the testimony from the people that testified. And with that, if there's any questions, I'd be willing to. Other than that, why, have a good weekend. [LB69]

SENATOR UTTER: Thank you, Senator Louden. With that, that closes the hearing on LB69. And I think it closes the hearing for today so enough is enough. [LB69]