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Revenue Committee
February 02, 2011

[LB430 LB527 LB528]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 2, 2011, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB430, LB527, and LB528. Senators present: Abbie Cornett, Chairperson; Dennis Utter, Vice Chairperson; Greg Adams; Deb Fischer; Galen Hadley; LeRoy Loudon; Dave Pankonin; and Pete Pirsch. Senators absent: None.

SENATOR CORNETT: Good afternoon and welcome to the Revenue Committee. I am Senator Abbie Cornett from Bellevue. To my left is Senator Dennis Utter from Hastings, Senator Deb Fischer from Valentine, Senator Greg Adams from York. On my far right just joining us is Senator Pankonin from Louisville. To his left is Senator Pete Pirsch from Omaha; Senator LeRoy Loudon will be joining us; and Senator Galen Hadley from Kearney. My research analysts are Steve Moore to my right and Bill Lock to my left. Matt Rathje is committee clerk. The pages are Marilyn Buresh and Amara Meyer. Before we begin the hearing today, I'd please ask everyone to either turn your cell phones to off or to vibrate. Sign-in sheets for testifiers are located by both back doors and need to be completed prior to coming up to testify. If you are testifying on more than one bill, you need to complete a form for each bill that you are testifying on. Please print your name and complete it before coming up. When you come up to testify, hand the form to committee clerk. There are also clipboards by the back doors for you to sign in if you do not wish to testify but would like to indicate either your support, opposition, or neutral testimony 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 neutral testimony. Only the introducer will be allowed closing remarks. As you begin your testimony, please state and spell your whole name for the record. If you have handouts, please bring ten copies for committee and staff. If you do not have ten copies, we will make copies for you. Hand those to the pages when you come up. With that, we'll begin the hearings for today.

SENATOR UTTER: Senator Cornett, we're ready for you to open on LB430.

SENATOR CORNETT: Okay. Good afternoon, members of the Revenue Committee. My name is Senator Abbie Cornett, C-o-r-n-e-t-t. I represent the 45th Legislative District. Today LB430 is a bill that I introduced last year and it died in committee, not for any particular reason actually at the end, just time. Two years ago the State Auditor's Office approached my staff and myself to point out a statute on levy limits which they felt needed to be clarified. The situation they faced was determining whether the taxes levied by sanitary and improvement districts for bonded debt were exceptions to the levy limit. I agreed to sponsor the bill to clarify this language. The bill was drafted with the assistance of the Auditor's Office. Last year we did not pass that out of committee. My intent in sponsoring this bill is to clarify that sanitary and improvement districts can issue bond debt in the manner they are accustomed to and continue to have the bonded

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debt levy stand as an exception to the statutory levy limit imposed by the SID. With that, I'll be happy to answer any questions. [LB430]

SENATOR UTTER: Any questions for Senator Cornett? If not, thank you and we will be open for proponents of this bill. Good afternoon and welcome. [LB430]

JOHN KUEHL: Thank you. I'm John Kuehl, K-u-e-h-l. I'm employed at D.A. Davidson. We finance about...we work with about 90 sanitary and improvement districts in the state of Nebraska. And as a proponent of the bill, I'd like to thank Senator Cornett for introducing this bill last year. We're here to show our support for what we're trying to clarify today. And it's...I think it's, in my opinion, noncontroversial. We're just trying to clarify the meaning of what bonds...of what the definition of bonds. Our interest is in the clarification for the State Auditor's Office in doing annual budgets, is the budget form reflects bonded indebtedness on the front of it and it doesn't refer to warrants. But if we can clarify the definition of bonds, that warrants are a debt of the district and part of the definition of bonds, then I think it's a very simple solution to what we need to accomplish today. Just to give you just a quick background, when a sanitary and improvement district does financing, by statute they issue construction fund warrants as interim financing and they all have a five-year maturity on those securities. And then as a district develops or collects specials and has the ability to issue bonded debt long term, the interim financing of construction fund warrants get taken out. And in that process we just need the clarification for the statute that that warrant debt is debt of the district. It pays for that infrastructure until such time as we can fund it with long-term obligation of general obligation debt. Any questions of committee? [LB430]

SENATOR UTTER: Thank you. Thank you, Mr. Kuehl, for your testimony. [LB430]

JOHN KUEHL: Yes. [LB430]

SENATOR UTTER: Questions? Senator Adams. [LB430]

SENATOR ADAMS: Thank you. Just in a matter of my own understanding, can an SID issue bonds up to 20 years? Is it like a municipality? Can they go whatever the market will bear? [LB430]

JOHN KUEHL: They can go with what the market bears. A norm is 20 years but we have issued 25-year bonds. [LB430]

SENATOR ADAMS: Okay. [LB430]

JOHN KUEHL: Some of it reflects in the subdivision agreement with a municipality. Omaha likes 20-year bonds but other municipalities will allow you to go additional years if the case may be. [LB430]

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SENATOR ADAMS: And those bonds are allowed to be refunded? [LB430]

JOHN KUEHL: That's correct. [LB430]

SENATOR ADAMS: They're callable and... [LB430]

JOHN KUEHL: Yes, they're bank qualified and they are issued at market rates and able to be refunded as the market bears. [LB430]

SENATOR ADAMS: Okay. [LB430]

SENATOR UTTER: Other questions? Senator Hadley. [LB430]

SENATOR HADLEY: Senator, thank you. Why do they call it a warrant? What... [LB430]

JOHN KUEHL: It's like a city's version of a note. [LB430]

SENATOR HADLEY: Okay. [LB430]

JOHN KUEHL: It's just by statute, when it was set up, they call them construction fund warrants. They pay for all the infrastructure, the capital improvements such as street paving, storm sewer, sanitary sewer and all of those capital improvements, and then as the district would develop through time, we create valuation and those interim-financed warrants get taken out with long-term general obligation bonds. [LB430]

SENATOR HADLEY: Who would purchase the warrants, banks, investment bankers... [LB430]

JOHN KUEHL: Individuals and... [LB430]

SENATOR HADLEY: ...individuals? [LB430]

JOHN KUEHL: ...yes, banks and institutions. They're tax-free, both state and federal, to Nebraska residents so they're an opportunity to invest tax-free. [LB430]

SENATOR HADLEY: And would they generally be backed by the full taxing authority then of the city that issues them? [LB430]

JOHN KUEHL: No, of the individual...each sanitary improvement district is a municipal corporation so it's its own little municipal corporation, if you will. So, no, it is not backed by the county, not backed by the city. The reason the city comes into play is like city of Omaha has a three-mile zoning jurisdiction over the creation of an SID, so if you're

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within a three-mile boundary of the city, the city wants you to do the infrastructure like they would do it--eight-inch concrete, etcetera, etcetera, and curb and gutter and all that--so when they do annex that subdivision that it's up to city code as opposed to if they just let you come out and do asphalt and no curb and gutter. If they ever annexed it then they wouldn't meet city code. So the only thing that kind of comes into play there, Senator, is that the subdivision agreement depicts what that particular municipality...how they want you to do the development but it is not any credit of the city or the county, until such time as the city would annex that subdivision. Then it becomes a neighborhood of that municipality. Otherwise, we've got a five-member board of trustees that runs the SID and sets their tax levy, like any other municipality. [LB430]

SENATOR UTTER: Other questions? Senator Pirsch. [LB430]

SENATOR PIRSCH: Mr. Kuehl, tell me if I...if you're not an appropriate individual to respond. But in looking at the actual... [LB430]

JOHN KUEHL: Probably not. [LB430]

SENATOR PIRSCH: (Laugh) [LB430]

JOHN KUEHL: (Laugh) No. No. [LB430]

SENATOR PIRSCH: Just in looking, it's pretty simple, the change in language. It's just crossing out two words and adding five in this bill here, crossing out the word "bonded indebtedness" and then just adding the words "bonds as defined in Section 10-134." Are you familiar with 10-134? [LB430]

JOHN KUEHL: Yes. Section (1) of that bill (sic) says, "Bond shall mean any bonds, notes, interim certificates, evidence of bond ownership, bond anticipation notes, warrants, or other evidence of indebtedness." A warrant in the SID world is that interim financing where a city would use a note as an interim financing. [LB430]

SENATOR PIRSCH: Oh sure. [LB430]

JOHN KUEHL: In our SID world it's called a construction fund warrant, which is defined in this statute. [LB430]

SENATOR PIRSCH: Oh. [LB430]

JOHN KUEHL: So we're just trying to clear that up for budget purposes. [LB430]

SENATOR PIRSCH: Well, you bet, and I've served on the board of an SID so I do appreciate the distinction. So what we're doing here is just clarifying the semantics of it

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to make sure that historically the way that these warrants have been treated is clearly... [LB430]

JOHN KUEHL: Yes, that it is an obligation. [LB430]

SENATOR PIRSCH: ...like a bond, right? [LB430]

JOHN KUEHL: Yes, it is an obligation of the district that has financed those improvements until such time that we can...the district has the ability to issue a bond. [LB430]

SENATOR PIRSCH: And this may be just off core, but in terms of the going rate when an investor can expect ballpark (inaudible) on these types of warrants, what is the market bearing now? [LB430]

JOHN KUEHL: Seven percent. [LB430]

SENATOR PIRSCH: Seven percent. And these are tax preferred, right? [LB430]

JOHN KUEHL: They're double tax exempt, yes. And as you may guess, in this market there's not a lot going on... [LB430]

SENATOR PIRSCH: Yeah. [LB430]

JOHN KUEHL: ...with the housing market struggling the way it has. So there's not many new deals that we're involved with at this point. [LB430]

SENATOR PIRSCH: Thank you. [LB430]

SENATOR UTTER: Other questions? Senator Adams. [LB430]

SENATOR ADAMS: Just as a matter of curiosity, a fellow senator showed me the other day, I believe it was in Douglas or Sarpy County, the number of SIDs and I do recall at some point legislation or whatever it was that...where when you build, you'll build in compliance with city regs so that when the annexation occurs. So let me get right to the question. Why would a city grow around an SID? Is it the debt that prohibits them or cause...not prohibit but causes them to say we're not going to annex you, and they become kind of islands within a city or right on the edge of? [LB430]

JOHN KUEHL: Yeah, the cities like to annex as soon as possible if it makes financial sense, depending on the development of that district, because they like...they want to be contiguous... [LB430]

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SENATOR ADAMS: Uh-huh. [LB430]

JOHN KUEHL: ...as they grow because if they leapfrog, if you will, to take a district, that extends city services that way, obviously police and fire and all that, and it has some negatives to leapfrog to do it. So they like to be more contiguous in their annexation. But if a district financially is not ready to be annexed that meets the criteria of that particular municipality that they've deferred, there's a lot of reasons why they do and don't annex a subdivision, but obviously based on location and what road improvements are around that subdivision. You know, we've had some subdivisions that weren't annexed, quite frankly, because the county had on their road plan that they were going to widen a particular street, so the city kind of waits, lets the county pay for it, then they'll come in and annex it. So there's a whole host of reasons why they may or may not take it. [LB430]

SENATOR UTTER: Other questions for Mr. Kuehl? If not, thank you very much, Mr. Kuehl, for your testimony. [LB430]

JOHN KUEHL: Yes, thank you. Thank you very much for your time. [LB430]

SENATOR UTTER: Other proponents? Are there any opponents of the legislation? Is there anybody that would like to testify in a neutral capacity? Seeing none, Senator Cornett, you're free to close. [LB430]

SENATOR CORNETT: Normally on something like this I wouldn't close, but I just wanted to clarify something. This was a bill that the Auditor's Office brought to us two years because of concern over interpretation of a statute. We did not look at this...we did not do this last year, and since that time the Auditor's Office determined that they might not want to approve the budgets for the SIDs. So we are back here, based on that statute, again looking at clarifying language for them. So thank you very much. [LB430]

SENATOR UTTER: Thank you, Senator Cornett. Any further questions of Senator Cornett? If not, that closes the hearing on LB430. [LB430]

SENATOR CORNETT: Senator Carlson. Welcome, Senator Carlson. [LB527]

SENATOR CARLSON: (Exhibit 1) Thank you. Good afternoon, Senator Cornett and members of the Revenue Committee. I am Tom Carlson, spelled C-a-r-l-s-o-n, representing the 38th District, here to introduce LB527. LB527 was introduced by Senator Dierks last year as LB1032. The committee advanced it on a vote of 7 to 1, and with...excuse me, 7 voting for and 1 present and not voting; however, it wasn't prioritized and died at the end of the session. The NRD board asked me to reintroduce the bill and will follow me to testify. LB527 allows natural resources districts that have received a preliminary or final determination of fully appropriated, and then reversed, to levy an

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additional 3 cents per \$100 of taxable value on all the taxable property in the district. The bill also changes the sunset on this authority from fiscal year 2011-12 to 2017-18. I have an amendment here reflecting the change, as the green copy was incorrect. And if you have that amendment, it simply corrects what was a typo that didn't have the year 2017 to '18, and the amendment would take care of that. I think that all of us understand and realize we're in a position in the state of Nebraska where we don't have state funds to help answer many challenges that there are in the state of Nebraska, whether it be concerning water or whether it be concerning conservation or whatever it might be. And I think that we need to allow local entities to have the ability to come up with the dollars to take care of their challenges and this would allow that and I think it makes sense. If a basin has been judged to be fully or overappropriated and then reversed, they need the ability to raise these dollars so that they don't go back into a fully appropriated or overappropriated status. And so that's the essence of this bill and recalling that it did go through the committee last year and I would ask you to consider the same thing this year. And I'd try to answer questions that you might have. [LB527]

SENATOR CORNETT: Questions from the committee? Senator Pankonin. [LB527]

SENATOR PANKONIN: Thank you, Chairman Cornett. Senator Carlson, under that scenario, do you think you or someone else would prioritize, put a priority on this bill that...and the subsequent bill too, I don't know how that relationship between the two, that it would get passed this year or...? [LB527]

SENATOR CARLSON: I can't really answer that today, but we have next year as well. So a bill that passes out of committee this year of course could be carried over. I haven't had that discussion. I don't know if anyone is interested in prioritizing this bill. I'm not prepared at this point to say it would be me. [LB527]

SENATOR PANKONIN: Okay. [LB527]

SENATOR CARLSON: But we do have the opportunity that it come back up next year. [LB527]

SENATOR PANKONIN: But you do think it's important policy that needs to be... [LB527]

SENATOR CARLSON: Certainly do. And obviously, if it is voted out of committee and wasn't heard this year, I'm sure there would be a priority next year. [LB527]

SENATOR PANKONIN: Okay. Thank you. [LB527]

SENATOR CORNETT: Senator Louden. [LB527]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Well, Senator Carson...Carlson,

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I'll get that straight, you're not from Hastings, I'll get that straight (laugh), this just moves the sunset date on the 3 cents that these NRDs have always had for when they were fully appropriated or overappropriated, that they were allowed to levy. Is that correct that's the part of the legislation? [LB527]

SENATOR CARLSON: That's correct. [LB527]

SENATOR LOUDEN: Now and you have a status change. Well, now it's in law that if a district had been fully appropriated they can levy an occupation tax. So does that affect that on there if they have a status change? Are you saying that if they go back to when they're not fully appropriated they wouldn't be allowed to levy this tax? Is that what you're trying to do? [LB527]

SENATOR CARLSON: Without this change, I believe that would be the case. And I think there's good reason that if a basin has been fully or overappropriated and then works their way out of that, that there could be reason to continue this taxing authority so that they can take steps that they don't fall back and get back into a fully or overappropriated position. [LB527]

SENATOR LOUDEN: Do you think any of them that are fully appropriated will ever work their way back out of it completely? [LB527]

SENATOR CARLSON: Well, certainly, certainly hope so. I can't answer that... [LB527]

SENATOR LOUDEN: I just... [LB527]

SENATOR CARLSON: ...but I think that there are good attempts being made to have that happen and in our overall water policy across the state of Nebraska we've got to be good stewards and we've got to work this thing in such a way that it's good for everybody in the state. And we've got long-term goals and needs in mind and we need to address those. [LB527]

SENATOR LOUDEN: And, yeah, it's mostly the sunset clause, what we were moving forwards on this bill here that we've always...this is legislation that's been in effect ever since clear back in about 2002 or so when LB962 or LB968 or whatever came into effect, I think. [LB527]

SENATOR CARLSON: LB962. [LB527]

SENATOR LOUDEN: Yeah. Okay. Thank you. [LB527]

SENATOR CARLSON: Okay. [LB527]

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SENATOR CORNETT: Senator Pirsch. [LB527]

SENATOR PIRSCH: I'm just trying to make sure I have an accurate understanding of what this conversation was. As it appears to me on page 2 of the green copy of the bill, of the LB527, it seems it's adding to that which has existed with overappropriation situations now applying to fully appropriated, right, or where there is a status change occurring pursuant to Section 46-714? What does 46-714 speak to with respect to a status change occurring? Do you... [LB527]

SENATOR CARLSON: Without these additional words on page 2, lines 22 and 23, if a basin had been fully appropriated and then moved out of the designation, away from the designation of fully appropriated, they could no longer levy this tax. This provides that if they had received a preliminary or final determination of fully appropriated and a status change occurs, so they've gone from fully appropriated to not fully appropriated, they could still levy the tax, thinking being that helps them address the challenge that they have to stay in a position so they're not fully appropriated. [LB527]

SENATOR PIRSCH: I guess that begs the question from me--and thank you for your expertise you're providing the committee--how does one determine, who determines fully appropriated and how does that process go about? I know it's probably a very involved question but if you can just give me a CliffsNotes answer on that. [LB527]

SENATOR CARLSON: The final responsibility of that is with the Department of Natural Resources. [LB527]

SENATOR PIRSCH: Okay. [LB527]

SENATOR CARLSON: And they have various ways that they make their determinations. Sometimes that determination is not correct. But even if they've determined fully appropriated and there's no argument against that, the basin is working to get into a position where they would no longer be fully appropriated. The importance of that is it allows, if a basin is not fully appropriated, it allows for further development. And if they are fully appropriated, there has to be an offset so it doesn't allow increased development. [LB527]

SENATOR PIRSCH: Can you give me a concrete example of why the danger for which you bring forward this amendment? In other words so you've just moved, you've got a preliminary or final determination that it was fully appropriated but it changed to less than fully appropriated. Why would you need that extra money? Is it to keep up whatever activities that were going on to make it less than fully appropriated? [LB527]

SENATOR CARLSON: This is conceivably, I think, that a basin could be conducting studies and projects and they have attained the status of no longer fully appropriated.

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[LB527]

SENATOR PIRSCH: Right. [LB527]

SENATOR CARLSON: You don't want to be fully appropriated. [LB527]

SENATOR PIRSCH: Right. [LB527]

SENATOR CARLSON: That means you're using as much water as you have available coming into the basin. [LB527]

SENATOR PIRSCH: Sure. [LB527]

SENATOR CARLSON: You'd rather have some margin in there. And it could be that there are projects going on that address this. They're not complete or there's reason to believe that other projects should be done in order to help assure that in the future we won't fall back into a fully appropriated position, and I think for that reason this funding would be appropriate, the taxing ability. [LB527]

SENATOR PIRSCH: Thank you. [LB527]

SENATOR CARLSON: Okay. [LB527]

SENATOR CORNETT: Senator Hadley. [LB527]

SENATOR HADLEY: Thank you. First of all, it would certainly help me to get to the right bill. I was reading LB528 and I couldn't figure out where you were at. LB527. My question was along the same line of really what a status change was, and I think you've answered that. That would be a status change for fully appropriated to not fully appropriated. Is that basically what we're saying a status change would be? [LB527]

SENATOR CARLSON: You're kind of catching me here. I think the status you want is nothing. Fully appropriated means you're using as much as you have available. Overappropriated means you're using more than you have available. You don't want to be there. Fully appropriated is okay but you have no margin for error and no margin for increased development. And if you get off of those designations then conceivably you've got room for further development but you want to stay there. [LB527]

SENATOR HADLEY: Okay. Thank you. [LB527]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you, Senator Carlson. [LB527]

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SENATOR CARLSON: Okay. Thank you. [LB527]

SENATOR CORNETT: First proponent? [LB527]

DENNIS SCHUETH: (Exhibits 2 and 3) Good afternoon, Senator Cornett, Chairman, and other committee members. I'm Dennis Schueth from the Upper Elkhorn NRD. My last name is spelled S-c-h-u-e-t-h. And I think I'm going to be able to address some of the questions that were answered before...or was questioned before. I'm here today on behalf of the Upper Elkhorn NRD board of directors to give support testimony for LB527, and I also want to inform you the Nebraska Association of Resources Districts also supported LB527 at their legislative conference on January 25, 2011. Currently, the Upper Elkhorn NRD has various levels of hydrologically connected water issues. A portion of the district has been labeled by the state as fully appropriated due to the Lower Niobrara Basin designation in 2007, then another portion of the district was preliminarily labeled by the state as fully appropriated in 2008, then reversed due to the Lower Platte River Basin designation, while the remaining portion of the district warrants no type of designation either locally or by the state. And if everybody can see this, you're getting a handout of this. This is a handout that shows the Upper Elkhorn NRD. The upper left-hand side of the district shows the Niobrara River Basin designation. The area that is in the green is the portion of the Upper Elkhorn NRD that was preliminarily labeled fully appropriated and then that designation was reversed, and I'll get into that testimony a little bit later and that will answer some of your questions. Senators, since the passage of LB962 in 2004, many districts have taken on more responsibility in managing and studying the groundwater and its hydro-connectivity to surface water. The Upper Elkhorn NRD has been participating with seven other districts to develop a hydrologic model known as the ELM Model to determine the connectivity between ground and surface water in the Lower Platte River Basin. This model was utilized by the state to preliminarily determine the Lower Platte River Basin as fully appropriated on December 16, 2008. Due to such a potential impact and uncertainty of the model projections, a third-party review was completed and presented to the state and the preliminary designation was ultimately overturned by the state on April 8, 2009. LB527 pertains directly to the Lower Platte River Basin area that was preliminarily designated fully appropriated. If you look on the second page you'll have a map of the area that was included originally in that Lower Platte River Basin designation. This designation covers approximately 92 percent of the Upper Elkhorn NRD or roughly 1.8 million acres. The Upper Elkhorn NRD continues to move forward, participating in the ELM Model, which is partially funded by the Nebraska Department of Natural Resources, through the IWMPP and the funds provided by the United States Geological Survey and the local NRDs involved. As new scientific technology is developed, groundwater models will continue to be improved over time. The importance of the continuation of this study will help the NRDs in managing groundwater locally and for the state into the future. However, funding mechanisms are needed. We know that state and federal budgets are experiencing revenue shortfalls and budget cuts are probably inevitable. In order to

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balance the state budget, there are many bills that have been drafted that the senators will need to consider. Will the senators cut aid to the NRDs? Will the senators approve the revamping of the Environmental Trust Fund that many districts rely upon? And will the Nebraska Department of Natural Resources funding be impacted? Changes to any of these funding mechanisms will have an impact to the NRDs and they will have to rely on the taxing authorities that have been granted to them. One of those taxing authorities that have been made available to the NRDs is the 3-cent taxing authority when a basin is labeled fully appropriated. As mentioned earlier, the Lower Platte River Basin preliminary designation has been reversed and the 3 cents taxing authority is no longer available to those NRDs impacted. The Lower Niobrara Basin designation which impacts 8 percent of the Upper Elkhorn NRD has been challenged to the Nebraska Supreme Court and that decision is forthcoming in the near future. If the Supreme Court's decision would overturn the state's Lower Niobrara River fully appropriated designation, the additional 3 cents taxing authority will not be available unless LB527 is approved. For the Upper Elkhorn NRD and many districts, we will have to rely on those existing taxing authorities granted to the funds. However, for some districts the current tax lid restricts them from being able to fully fund the responsibilities that have been placed upon them to reach the maximum lid levels. Due to the passage of LB962, districts are being proactive in trying to understand hydrologically connected ground and surface water before being labeled. Senators, outside of the modeling efforts that are currently going on within the Upper Elkhorn NRD, we will need additional funding mechanisms to accomplish them. A couple of items that our district needs to address are acre certification. We need to certify an estimated 450,000 to 500,000 acres of irrigated ground. The cost to develop the software and the database development alone will cost approximately \$30,000. We will need to monitor those acres for compliance annually, which will require a staff member. We would like to consider infrared flyovers over our district for compliance of those certified irrigated acres, which may cost approximately as much as \$40,000 annually. We want to continue modeling efforts utilizing the ELM Model on a more localized area, such as by NRD. Modeling efforts could compare reducing irrigated acres or an irrigation water allocation and their impacts to hydrologically ground and surface water. Cost share may be needed to get flow meters on 4,000-plus irrigation wells within our district if we move to a water allocation system. Continue to work with the Lower Platte River Basin Coalition, the Nebraska Department of Natural Resources, and the Nebraska Game and Parks on managing the Platte River Basin for existing ground and surface water development, protecting habitat for the pallid sturgeon and recovery of them, and other conservation water measures. We also need to address replacing existing funds that are currently received from local, state, or federal grants that are literally or potentially drying up. Senators, budgetary issues are a high priority and it is a known fact that water is an expensive thing to study, monitor, and to protect for current and future uses. There is no crystal ball that will tell us if the state's revenue shortfalls will improve dramatically in the near future or if any state funding that is cut this legislative session will even be replaced when the economy improves. The NRDs need this taxing authority. The

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Governor has stated water is the issue of the decade, but the NRDs also believe it is Nebraska's future. Senators, I want to thank you for the opportunity to present support testimony. [LB527]

SENATOR CORNETT: Senator Pirsch. [LB527]

SENATOR PIRSCH: I appreciate going through the effort of listing those things that you think your NRD would need. Now this particular bill, these...this extra taxing authority would be relegated to only NRDs who at one point in time were designated fully appropriated and now changed to less than fully appropriated, right, under the law. Is that right? [LB527]

DENNIS SCHUETH: It would go...if you had a lesser designation, I believe. If you were overappropriated and go back to fully appropriated, it would work there, or if you were preliminarily labeled fully appropriated or fully appropriated and go back to non-fully appropriated, it would be allowable for that. [LB527]

SENATOR PIRSCH: So that's pretty narrowly tailored to your situation, right, in your district? [LB527]

DENNIS SCHUETH: For our district and the other seven NRDs also. You know, when you look at that map, the second map, all of those NRDs that are in the light or purplish color, this one here, all of those NRDs would have...do you need one of those, Senator? [LB527]

SENATOR PIRSCH: No, no. [LB527]

DENNIS SCHUETH: Okay. [LB527]

SENATOR PIRSCH: I'll get one but I'm sharing here with one. [LB527]

DENNIS SCHUETH: All of those would be experiencing the same issues as what the Upper Elkhorn NRD would be. [LB527]

SENATOR PIRSCH: Okay. All right. And that's what I was getting at. Is this...is there something peculiar about these districts then that would make them different than other NRDs in their desire to also have additional tax authority to address some of the issues that you indicate, infrared flyover? I mean is there... [LB527]

DENNIS SCHUETH: Currently, all of the districts are doing or in the process of doing or expanding additional studies. The area that is shaded there in the mauve color, they all belong to the ELM Model and that ELM Model, as I explained in our testimony, that is a model that we want to continue on. It's continuing on for another two years. And then

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after that we'll reevaluate it. But then probably what we'll see happening with the ELM Model, we'll localize it probably to each individual district, to each NRD, as so wish upon those NRDs. [LB527]

SENATOR PIRSCH: Yeah. Can I ask you, this blue on the map you referred to, the blue area, the area shaded blue, they currently enjoy that 3-cent extra...? [LB527]

DENNIS SCHUETH: Yes. [LB527]

SENATOR PIRSCH: And so this would apply to all the pink... [LB527]

DENNIS SCHUETH: Yes. [LB527]

SENATOR PIRSCH: ...or purplish area then. [LB527]

DENNIS SCHUETH: Yes. Yes. [LB527]

SENATOR PIRSCH: Okay. I see. And really, is that...does that address, if not all, almost all of the areas of the state that have struggled with water management? Is that...would say? [LB527]

DENNIS SCHUETH: You know, each year, currently the area that is in the mauve color or the purple color,... [LB527]

SENATOR PIRSCH: Yeah. [LB527]

DENNIS SCHUETH: ...until 2012, those areas will not be labeled or be reviewed by the Department of Natural Resources to see if the status should change to fully appropriated or remain in the status of non-fully appropriated. The area in the white, those basins are currently on an annual basis being evaluated if they have met or have been triggered to be labeled fully appropriated by the state of Nebraska through the Department of Natural Resources. So annually those areas that are in the white have a potential of being labeled as fully appropriated so they may also need the potential for the 3 cents. [LB527]

SENATOR PIRSCH: But that wouldn't apply, under this particular law, right? [LB527]

DENNIS SCHUETH: Correct. [LB527]

SENATOR PIRSCH: This is just going to affect the mauve-colored area. [LB527]

DENNIS SCHUETH: Yeah. Yes. [LB527]

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SENATOR PIRSCH: Okay. Thank you. [LB527]

SENATOR CORNETT: Further questions from the committee? Senator Fischer. [LB527]

SENATOR FISCHER: Thank you, Senator Cornett. Thank you, Dennis. I feel like I'm back across the hall in Natural Resources. [LB527]

DENNIS SCHUETH: Yeah. [LB527]

SENATOR FISCHER: Welcome to Revenue. As I read the bill, this would apply to fully appropriated districts, it would apply to overappropriated districts, and it would apply as in the case of the Lower Platte South with that preliminary designation which takes in the purple area... [LB527]

DENNIS SCHUETH: Yeah. [LB527]

SENATOR FISCHER: ...on your map here, and then if you have a status change, which I agree with Senator Carlson, we're hopeful for those status changes to go back to nonappropriated. You gave us a list of projects that your district is looking at doing, and when...also when we look at the bill, it would apply not just to integrated management plans, which I think was...and maybe I can be corrected by you or another presenter, but I believe we gave this authority to be able to tax more to fully overappropriated basins because of their integrated management process that they are required to go through. First of all, would you agree or disagree with that? [LB527]

DENNIS SCHUETH: There is an additional tax, the 1-cent mill levy, and for the Upper Elkhorn NRD aimed at utilizing those funds for this type of an issue, that 1 cent, we are currently at .85 cents. We're currently utilizing that. [LB527]

SENATOR FISCHER: But specifically to the 3-cent levy that's discussed in this bill, to be able to levy that additional 3 cents, that's for fully and overappropriated districts currently, right. [LB527]

DENNIS SCHUETH: Yes, currently. It does not apply for the purple color that you're referencing. [LB527]

SENATOR FISCHER: Right. Right. But the purple color on this map, those basins are not required to have an integrated management plan. Is that correct? [LB527]

DENNIS SCHUETH: That's is correct. [LB527]

SENATOR FISCHER: Last year the body passed a bill allowing for voluntary integrated

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management planning to take place. Is your NRD looking at doing any IMPs? [LB527]

DENNIS SCHUETH: As far as going into the voluntary IMP right now, no, but we are going forward with the study and everything to keep us in the status of not fully appropriated. And so I know there are a couple other districts, such as you'll hear from another presenter later so I'll let him defend his issue on that, and the Lower Platte South NRD is also, I believe, considering that. [LB527]

SENATOR FISCHER: My point is, though, if the state...if the state is not requiring the purple area, which is affected under this proposed legislation, if the state is not requiring you to have an IMP, why should you get additional taxing authority? You've given us other water management activities that you would like to participate in. I would say to you that the white area on your map, that those basins, the Nemaha, the Lower Big Blue, the Little Blue, that they probably have water management projects that they would like to be able to have that 3-cent authority also. So what makes...what makes you so special that you should be able to have this since you're not required to have an IMP as a fully or overappropriated district? [LB527]

DENNIS SCHUETH: I think when you look at how the process was created for that purple area, there was a mistake in the model that was created to make that determination. So if you really would want to take a look at it, our area should also be white. It was a miscalculation on the model, which we were a part of, the Upper Elkhorn NRD with the other seven NRDs. So this is something I don't think the state really ever thought would really occur as fast that it did. I think when LB962 was passed, they thought that there would probably be X number years that would pass before they could ever revert back to a status of non-fully appropriated. And so because of a calculation error, it drew a lot of attention to the purple area. And so when you look at just the white area, making that statement, Senator, we should really be considered as a white portion of the state of Nebraska, as not fully appropriated. [LB527]

SENATOR FISCHER: You know my concern and my love for our natural resources that we have in this state, especially our water resource, and I think we need to provide more funding. However, I think you need to...I think you need to update your map. I think this map, it's correct in addressing this bill but it's no longer correct in what the designations are. Yes, there was a time when that purple area had a preliminary designation, which by the way covers thousands and thousands of acres in my legislative district, but that's not the case now. You are not fully appropriated. You are not overappropriated. And that preliminary designation has gone away. [LB527]

DENNIS SCHUETH: Yeah. The reason for including this type of map was just showing the vast area of the various districts involved and the multiple NRDs involved and their different status or where they're going with various models or studies that need to be shown. So that's why I showed this. It was a lot easier to show the impact of what was

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reversed. And there is a map on the Department of Natural Resources where that is shown as white but, again, it's unique. We're currently...that area is being administered through acre expansion through LB483 and that was passed in 2009. And so we're also administering another piece of legislation that was passed in 2009 with our own local NRD funds. You know, there was no existing dollars to help administer LB483. [LB527]

SENATOR FISCHER: Would...why don't we include the entire state in this bill? Why don't we include all the basins in this bill? Don't all the basins and shouldn't our water resources merit study and protection and management across the state? Why aren't we addressing the entire state? [LB527]

DENNIS SCHUETH: You know, the question, if you were to ask that to the state association body made up of the 23 natural resources districts, they would probably support that. But the problem that we get into is all of you as senators have probably looked at some of the mill levies that existing NRDs have and so when you would look at that again, just like the additional 3 cents that is allowable now, not all NRDs are utilizing it because they can do it under their existing mill levy, the 4.5 cents, the 1 cent. They don't need to dig into that additional 3 cents. They're able to do it under the 4.5 cents. And so the fear that I would say...I like your suggestion as long as we would not come back later and be questioned--you have this funding, why aren't you using it. It's what each of the districts can do with their existing mill levy taxing authority. And so I think the NRDs would support that as long as we wouldn't be questioned how come we are not using it. [LB527]

SENATOR FISCHER: And I think you've brought up a good point there that the areas on this map that you've identified, most of those NRDs do not have the resources that they are able to tap into that we find in the eastern part of the state. [LB527]

DENNIS SCHUETH: Yeah. [LB527]

SENATOR FISCHER: So I thank you for your...the work and your NRD for being very proactive on water issues. Thank you. [LB527]

DENNIS SCHUETH: Thank you. One of the...if I could expand, one of the items that I did not include on this which some of the other districts are doing, they're looking at purchasing surface water rights and/or groundwater rights and that was one thing our board of directors have not utilized yet. But that's not to say five years or ten years down the road that we may not have to buy and retire surface water rights or groundwater rights for municipal or industrial development. You know, that's a requirement that's also under LB962 that the NRDs become accountable for up to 25 million gallons of water for those type of expansions. [LB527]

SENATOR CORNETT: Further questions from the committee? Senator Loudon.

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[LB527]

SENATOR LOUDEN: Yeah, thank you, Senator Cornett. Well, as you just mentioned that, if you think you're going to buy some rights out in the future, how come you allow any more irrigation wells to be drilled? [LB527]

DENNIS SCHUETH: Because currently right now we rely upon the Department of Natural Resources, each basin annually, except for the area that is in that mauve color, currently right now that area the Department of Natural Resources has determined that there is room for development. There still is room for irrigation development or water/groundwater use development and surface water development. So what you would hope to do to keep this great state of Nebraska moving forward economically is that you would use up the resources that allow you to economically move forward without harming that resource. So what the Department of Natural Resources did is, when they reversed it, they gave, the NRDs within their model decisions, how they came up with, the Upper Elkhorn NRD was granted 10,000 acres over a four-year time period, 2009 to 2012, to allow an expansion of 10,000 acres. So when you look at that, we want economic development to still continue. [LB527]

SENATOR LOUDEN: In other words, you want to be right at your full developed level is what you're trying to get at and hold at that level. [LB527]

DENNIS SCHUETH: Or a little bit below so there's still some expansion, yep. [LB527]

SENATOR LOUDEN: Okay. How much of this ELM...is that state mandated or how much of this that you mention in your presentation that is state mandated? [LB527]

DENNIS SCHUETH: Currently right now we are receiving about \$875,000 from the state. The NRDs are kicking in approximately \$219,000. The USGS is kicking in approximately \$238,000 for \$1.3 million. [LB527]

SENATOR LOUDEN: Okay. And then if we were working on legislation to take the funding away from the NRDs or any state aid to NRDs, then in other words the property tax will have to pick that up. Is that correct? [LB527]

DENNIS SCHUETH: Correct, if your board...if your local NRD board wanted to go that way. The state aid that the Upper Elkhorn NRD receives right now is \$13,000. It's not much but for our district that is a huge dollar amount. That \$13,000 would have to come up...be spread across 1.9 million acres. [LB527]

SENATOR LOUDEN: Now if you don't get that \$13,000, are you at your 4.5 cent levy now? [LB527]

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DENNIS SCHUETH: No. [LB527]

SENATOR LOUDEN: Do you have some wiggle room in there? [LB527]

DENNIS SCHUETH: Yes, we do. [LB527]

SENATOR LOUDEN: Okay. Thank you. [LB527]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB527]

DENNIS SCHUETH: (Exhibits 4 and 7) I do have...I'll submit this in, I have testimony from Anna Baum with the Upper Loup Natural Resources District, and also Ron Cacek from the North Platte NRD in support, and I'll also submit that in for them. [LB527]

SENATOR CORNETT: (Exhibits 5 and 6) Okay. While you're submitting those, I'd also like to read into the record, our office has received a letter from the Pappio-Missouri River NRD supporting LB527 to be entered into the record. And the Nebraska Farm Bureau has also entered a letter in support of both LB527 and LB528. [LB527]

DENNIS SCHUETH: Thank you. [LB527]

JOHN MIYOSHI: (Exhibit 8) Good afternoon, Senator Cornett and members of the Revenue Committee. My name is John Miyoshi, that's spelled M-i-y-o-s-h-i. I'm the general manager of the Lower Platte North NRD located in Wahoo and today I'm here in support of LB527. On December 16, 2008, the Lower Platte Basin was preliminarily declared fully appropriated by the Nebraska Department of Natural Resources. This area depicted on the pink portion of the attached map, and I believe you've all seen that before, encompasses close to one-third of the state. The Lower Platte Basin includes the Loup and Elkhorn Basins. Geographically, this area includes major portions of seven NRDs and small edges of five additional NRDs. Statutorily, this designation means that water use and availability are in balance and any additional development would harm current permit users. The trigger for this designation is that the most junior surface water user must receive 85 percent of his water needs, and that's days water is available for irrigation, between May 15 and September 15, and 65 percent of his water needs in July and August. This is commonly referred to as the 65-85 rule. When the 2008 designation report was released, the basin NRDs were puzzled as the 2007 DNR report showed significant water availability for what we thought was a number of years before we would be close to the fully appropriated designation. The 12 basin NRDs organized and worked with DNR to review the data used for the preliminary determination. One new partially completed study was used for the determination, which became the focus of the review. It was discovered that the new model had all the crop water needs coming from irrigation and failed to account for the rainfall providing a portion of the crop water needs. As graphically shown on the second attachment, this

error predicted a decline in the stream base flow which triggered the designation. With the correct data in hand, DNR reversed their preliminary determination. There are some who depict NRDs and DNR working against each other on this review, which is not true. We commend DNR Director Brian Dunnigan, who directed his staff to work with the NRDs so that the best science would be used to make the important determination. This preliminary determination did serve as a good wake-up call for all of the NRDs and water users within the basin. The more inclusive seven basin NRDs had formed a group called the Lower Platte River Basin Coalition and the members are the two Elkhorn NRDs, the two Loup NRDs, the two Lower Platte NRDs, and the Papio-Missouri River NRD. The purpose of the group is to collectively work on basin water issues and solutions and, specifically, voluntary integrated water management plans. We have formed a committee to work on that and this is where the area...this is the area where we have the largest opportunity to control our own water future. These plans written conjunctively between the individual NRD and DNR would control both ground and surface water use. We are in agreement that the only method to keep us from being fully appropriated is to be proactive and use this planning tool. Most of the basin NRDs are currently in the process of certifying our irrigated acres in preparation of beginning an IMP. Second area of emphasis, creation of the Lower Platte work group, and this work group is the basin NRDs working with Nebraska Game and Parks Commission and others to review surface water issues in the Lower Platte River. These issues include the Game and Parks draft biological opinion for the Lower Platte, issuance or nonissuance of surface water permits in the Lower Platte Basin, endangered species needs in the Lower Platte Basin, and sharing of basin study efforts. This group is currently working on a memorandum of understanding which would give those seeking water permits options for providing...or seeking permits options for providing those offsets, retiming or other environmental offsets to allow issuance of the water permits. Third item, the NRDs have pledged to work with Game and Parks on pallid sturgeon studies and reviews. Of all the threatened and endangered species in the Lower Platte Basin, the one with the least amount of scientific knowledge is the pallid sturgeon. We often disagree with Game and Parks staff on interpretation of existing data. The basin NRDs have pledged to assist Game and Parks with securing studies and working cooperatively to advance knowledge of this ancient fish. Besides the Lower Platte River Basin Coalition, there are cooperative and individual NRD's studies moving forward. The two largest cooperative efforts are the Eastern Nebraska Water Resources Assessment, commonly called ENWRA. This is a cooperative effort among six NRDs to increase water knowledge in the glacial till areas of eastern Nebraska. Several studies and pilot projects have been or are in the process of being completed to map the varying groundwater aquifers. Some of these projects continue for another seven years. Dennis mentioned the Elkhorn-Loup Model, commonly called the ELM, and again this is a cooperative effort by eight NRDs to construct a water model for the Elkhorn and Loup Basins. The major contractor is USGS with assistance and leadership from an employee of the eight NRDs. There's a great need in the Lower Platte Basin for cooperative water planning. Unfortunately, it takes top dollars to prepare for the future.

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LB527 is permissive language which allows NRDs that are in the preliminary determination area to be treated equal to fully and overappropriated NRDs. The bill allows these NRDs to increase their property taxing rate up to 3 additional cents with the funds earmarked for groundwater programs. I feel we can invest a small amount today and be prepared to properly manage our groundwater resources in an economical and sustainable way for the future generations. I urge you to support LB527. Two things I'd like to add: It came up earlier about do we need this legislation this year and, yes, we do. There is a sunset on the current 3-cent levy for the rest of the state. There is a very similar bill, LB528. All it does is extend that. One of those two bills do need to pass today if we want the NRDs to continue the efforts that they're putting forward for water. Second item: Glenn Johnson from Lower Platte South has some written testimony he'd like to put into the record, so I will leave that with you. (Exhibit 9) And with that, that concludes my testimony. Senator Fischer, I'm assuming you'll have questions on interrelated water management or expressway funding or something. [LB527]

SENATOR CORNETT: Mr. Miyoshi, a question. Do you wish to just enter your testimony also for the following bill since you spoke to both or...I mean you don't need to get up and explain everything all over again. Or you can just get up and... [LB527]

JOHN MIYOSHI: No. No, will not do that. No. [LB527]

SENATOR CORNETT: I was going to say, or you can just get up and say me too again. (Laugh) [LB527]

JOHN MIYOSHI: Yes. [LB527]

SENATOR CORNETT: All right. Senator Hadley. [LB527]

SENATOR HADLEY: Senator Cornett, thank you. I'd like to follow up on a question that Senator Fischer asked earlier. If this is good for the preliminary designated and fully appropriated, are those fully and overappropriated and preliminary designation, why wouldn't we want the areas that are not but have the potential to get into those designations, give them the same ability to use funds to make sure that they don't end up in the preliminary and then in the fully and then sliding up the scale? I guess the question is, where do we start allowing them to use the 3 cents? Is it...should it be at the... [LB527]

JOHN MIYOSHI: That's a very good question. As Senator Fischer alluded to, that 3-cent authority was actually put in place to implement integrated water management plans and the future of managing water in this state is the integrated water management plans. Today they are mandatory if you're fully or overappropriated, voluntary, and that was just passed last year, if you're not. And so a lot of the NRDs, including ours, is very serious about looking at integrated water management and those are the NRDs that

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truly need that extra taxing authority. We didn't write the legislation but in our case we like it. To show the sincerity of the IMPs, Lower Platte South two weeks ago, their directors met on a Friday night and again on Saturday morning with a workshop just to talk about IMPs. Our board is meeting a week from tomorrow in Schuyler. We're going to spend half the day strictly talking about IMPs. It's a big issue for us. You know the old days, we tried and tried to manage groundwater by the NRDs, surface water by the state. There's times that will work, but when you start getting close to that tipping point you have to manage the two together. And so like I said, the future of managing water is integrated water management plans. It might make sense to tie the 3 cents to districts that are...have begun and are in an integrated management plan and that's strictly what our district would use. The 1 cent funds our groundwater programs today. If we move to this next level with IMPs, that's where we would need the extra taxing authority. [LB527]

SENATOR HADLEY: Okay. Second, and I guess this is more of a comment than it is a question, you know we deal a lot with tax policy, hopefully, in this committee, and we see certain instances that we allow increases in taxes by local political subdivision groups, whether they be city, counties, NRDs, whoever they might be, and other times we don't. So I hope we're looking at this from a good, sound tax policy standpoint of what is good tax policy in allowing this extra 3 cents. [LB527]

JOHN MIYOSHI: Right. We don't want the rest of the state to get into the situation we're seeing in the western Platte or in Republican Basin where just because of law, you know, they were able to overappropriate their water needs, and it's very expensive to back that train up. But, hopefully, with these voluntary IMPs we're able to not get to that point. [LB527]

SENATOR HADLEY: Thank you. [LB527]

JOHN MIYOSHI: Great tool for us. [LB527]

SENATOR HADLEY: Thank you, Senator Utter. [LB527]

SENATOR UTTER: Senator Louden. [LB527]

SENATOR LOUDEN: Yeah, thank you, Senator Utter. Well, if you get your IMPs in, then you will have authority to levy a \$10 occupation tax on irrigated ground. Isn't that correct? [LB527]

JOHN MIYOSHI: That's correct and, you know, speaking... [LB527]

SENATOR LOUDEN: Should we be giving you 3 cents to get into your IMP so you can go ahead and levy the \$10 occupation tax? I guess that's...where do you come down on that? [LB527]

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JOHN MIYOSHI: And a decision like that would be extremely difficult for our board to make. As that legislation moved through, we understand there's areas of the state that need to reduce their water use. We're not to that point and our board members just...I can't imagine them going there, Senator. [LB527]

SENATOR LOUDEN: Now does your NRD have enough money to go ahead and implement your voluntary integrated management plan? [LB527]

JOHN MIYOSHI: Not to the extent that we'd like to. You know, there's just a lot more tools in that toolbox once you have the IMP. One of the good examples is adjudicating water rights, meaning you have a surface water right that has not been used for a ten-year period. At that point, DNR can come in go through what's called an adjudication process and take that right to irrigate away from that individual through nonuse. It's a high priority out in the full and overappropriated areas, however, in eastern Nebraska it's not a priority. We're not to that point yet. However, to our NRD that's extremely important. We have hundreds of those rights within our NRD that we would like to adjudicate. Talking with Brian Dunnigan, head of DNR, if we would do the legwork on that, he would back us up and help us through that adjudication process. And if we have IMP, that's one of the...an example of one of the things our board would move ahead with. [LB527]

SENATOR LOUDEN: And you're saying you would try and purchase those water rights? [LB527]

JOHN MIYOSHI: No, no. Most of those people used surface water irrigation in the past and they've converted to groundwater irrigation, so that water right is laying there stagnant, but yet... [LB527]

SENATOR LOUDEN: They haven't used it for a period of years so... [LB527]

JOHN MIYOSHI: Yes. [LB527]

SENATOR LOUDEN: Yeah. [LB527]

JOHN MIYOSHI: But yet it's tying up water because they have that surface water right and the adjudication process then would free that water up for other uses. [LB527]

SENATOR LOUDEN: Okay. Last question: Which bill would you prefer, LB527 or LB528? [LB527]

JOHN MIYOSHI: LB527. That accomplishes both goals. The 3 cents for the districts that want to look at IMPs and the extending the sunset date are both included in LB527.

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[LB527]

SENATOR LOUDEN: Okay. And LB528 just extends the sunset? [LB527]

JOHN MIYOSHI: Correct, for the NRDs that were in the blue on the map. [LB527]

SENATOR LOUDEN: Yeah. Okay. Thank you. [LB527]

SENATOR CORNETT: Senator Fischer. [LB527]

SENATOR FISCHER: Thank you, Senator Cornett. John, on LB527, can you tell me your interpretation of it? On the different basins that would be included, does that include the entire basin would then be subject to that 3-cent tax or only the part that was in the preliminary designation? [LB527]

JOHN MIYOSHI: Well, it's only the portion that was in the preliminary designation, but if any of your NRD was in that area that would reflect...be reflected. Now the pink map shows the hydrologically connected area. We have a lot of...when I talked about the glaciated areas that are not directly connected to the stream or we're not sure if they're directly connected to the stream because the Jenkins method for the groundwater model that was used, so... [LB527]

SENATOR FISCHER: But my question to you is, for example, the Lower Platte, you would be the Lower Platte North, right? [LB527]

JOHN MIYOSHI: Correct. [LB527]

SENATOR FISCHER: So the Lower Platte North, you have parts of your NRD that are not...that were not in the preliminary designation of being fully appropriated. Is that correct? [LB527]

JOHN MIYOSHI: That's correct. [LB527]

SENATOR FISCHER: Under this bill, would those parts that were not included, that land that was not included in that preliminary fully appropriated designation, would that land be subject to the 3-cent levy? [LB527]

JOHN MIYOSHI: Yes, it would. [LB527]

SENATOR FISCHER: Any land, all land in your NRD would be subject to the 3 cent. [LB527]

JOHN MIYOSHI: Correct. [LB527]

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SENATOR FISCHER: Okay. Thank you. [LB527]

JOHN MIYOSHI: And again, when we're managing integrated management, it's the surface and groundwater together. [LB527]

SENATOR CORNETT: Senator Utter. [LB527]

SENATOR UTTER: Mr. Miyoshi, this may be slightly off of the subject of the 3-cent tax, but can an argument be made that even those NRDs that are not in the classification as fully appropriated or overappropriated, can an argument be made that every NRD in the state ought to have an integrated management plan? [LB527]

JOHN MIYOSHI: I think a very good argument could be made for that. Like I said earlier, the future of managing our water in this state, in my mind, is integrated management plans. I think the work that Senator Louden did to start that and the Natural Resources Committee today did to follow up, I think all that has led us to this point, that those IMPs are important. [LB527]

SENATOR UTTER: Thank you. [LB527]

SENATOR CORNETT: Further questions? Seeing none, thank you. Next proponent? [LB527]

JOHN HANSEN: Madam Chairman, 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, appear before you today also as our lobbyist. We supported this effort last year. We thank the committee for their efforts last year to get a similar bill out of committee. Unfortunately, we ran out of time and didn't get it passed and our concern last year was that, in the absence of a priority designation, that we were kind of playing chicken with the clock. We're closer to that time table now. And I think most of the technical questions have been asked and answered and we would, as a general farm organization, be in a similar position I think with our counterpart, the Farm Bureau, in that of all the different kinds of taxes that different entities incur landowners tend to think that NRD taxes that in one way or the other go back to the management of their soil and water resources. There's a logic to that and it is more well-accepted than most other forms of property tax, in particular, base taxation, but folks recognize that and they also recognize that they have an inherent financial interest in making sure that the very best information is gathered and is used in making natural resources decisions when it comes to management, especially when it comes to the issue of water and water management. And so the cost of saving a few pennies here or there versus spending the money to make sure you have the very best information, most of our folks would come down on the side of saying this was a good investment to make sure that the

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NRDs have the necessary resources to deal with these issues when they present themselves. And with that, I would close my testimony and answer any questions if you have any, if I could. [LB527]

SENATOR CORNETT: Questions? Seeing none, thank you, Mr. Hansen. [LB527]

JOHN HANSEN: Thank you. [LB527]

SENATOR CORNETT: Are there any further proponents? Opponents? Anyone in a neutral capacity? Senator Carlson, you are recognized to close on that bill and open on the next one. [LB527]

SENATOR CARLSON: Senator Cornett and members of the Revenue Committee, thank you for allowing this bill to be presented. I'm going to make a couple of comments and then slide right into LB528. In the discussion as to whether this provision in LB527 would be good for all NRDs, probably so, but I think there was a hesitancy on the part of the NRDs to ask for that because of the climate in our state about not wanting to have tax increases above and beyond what's absolutely necessary and the attitude of the Governor toward tax increases. They would like it but they're not asking for it at the present time. And I would recommend that the bill...I hope the committee can move the bill forward in the form that it's in. If the committee would choose to advance LB527, then LB528 isn't necessary. I would request that if your decision is to advance LB527 you simply leave LB528 in the committee. And I would hope that we would be able to prioritize LB527 or move it through the schedule before the end of the session and certainly would try to do that. I think that this is a reasonable bill and it makes sense to me that those NRDs, that are involved in a situation where they've been over or fully appropriated and then moved back, should be able to have funds available to assure that they don't get in that situation again so that we can have some future development and expansion of irrigation in the state. With that, that concludes my closing and my opening on LB528. Any questions? [LB527 LB528]

SENATOR CORNETT: Thank you. Questions from the committee? Thank you, Senator Carlson. [LB528]

SENATOR CARLSON: Thank you. [LB528]

SENATOR CORNETT: First proponent? [LB528]

RON BISHOP: (Exhibit 10) Chairman and members of the committee, my name is Ron Bishop, B-i-s-h-o-p, and I'm general manager of the Central Platte Natural Resources District out here at Grand Island. Please excuse my dress. Typically when I appear before a committee of the Legislature I've got a tie, but when I left home this morning I didn't know whether I was going to be walking out of a snowbank on the way down here

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or not so I let that determine my dress. I'll do better tomorrow because I know what the roads are like. I'm appearing today on behalf...in support of LB528 on behalf of Central Platte NRD and on behalf of the Nebraska Association of Resources Districts, who have both taken action within the last week to strongly support LB528. Five to ten years ago when the Water Policy Task Force was winding down its efforts to address the pending water issues, they came down in support of a system that ended up being LB962. But when they were doing that they all agreed that if that was going to be successful we had to have funding, funding both from the state and the natural resources districts. The natural resources districts need to continue to have that ability for that 3-cent levy for groundwater management activities and integrated management activities in the fully and overappropriated areas in order to carry out the NRDs' efforts and cooperation with the state in funding the programs that we needed to be funded. That suggestion, it was anticipated that funding would be available in 2005 both from the state and from the natural resources districts. The NRDs have had that 3-cent...in the fully and overappropriated areas, have had that 3-cent authority now for several years, but we're approaching the point now in 2011 where we've got 35 to 40 percent of the state that's designated fully and overappropriated and we have another 35 or 40 percent close to being declared fully appropriated. We're faced with a situation where we have a compact with Kansas that provides certain demands. We've got an agreement with the federal government and two other states on the Platte River and these are all calling for water offsets for any new river or stream depletions or new additional flows in those streams and rivers. All of these are to meet commitments of the compacts or agreements that we've signed on for, and many of them have deadlines. The additional 3-cent levy is critical to the NRDs' continued efforts to partner with the state on providing the needs and meeting the commitments of our compacts, agreements, and other water resources needs in those overappropriated areas of the state. Central Platte NRD has the highest valuation of any of the fully or overappropriated NRDs in the state and even we cannot carry out our programs and commitments without the additional 3 cents. Over the last three or four years, our levy has overed in the 4.7 to 5.3 range, over the 4.5 percent base levy that NRDs have, and we expect our needs to go up as we get deeper and deeper into our integrated management plan and deeper into the programs in cooperation with the state. Other NRDs are already exceeding our levy and are using the additional 3-cent authority to near its limit. In order for the NRDs to remain meaningful partners with the state and to continue to financially help meet the needs and the commitments of the compacts and agreements, as well as LB962, it's imperative that you extend the sunset on the additional 3-cent levy for water activity. Thank you for your time and for your attention. I'll try and answer any questions you might have. [LB528]

SENATOR CORNETT: Thank you very much. Senator Hadley. [LB528]

SENATOR HADLEY: Senator Cornett. Thank you for coming in. A question that was asked earlier I would like to ask you. Do you think there should be a requirement that all

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NRDs have an integrated water plan? [LB528]

RON BISHOP: Well, there is a requirement, Senator, for any district that has been declared fully or overappropriated,... [LB528]

SENATOR HADLEY: Right. [LB528]

RON BISHOP: ...and this Legislature passed a year or two ago legislation that authorized other districts that aren't there yet to be proactive and start developing integrated management plans and several of them are in the process of doing that very thing. I know of three or four of the districts that have actively...are actively starting that process of developing integrated management plans and the state Department of Natural Resources has been very cooperative in working with those districts. I think we're going to see more and more of the districts, as they get closer and closer to that fully appropriated, being proactive and trying to determine their own destinies as far as water resources go in their area and developing integrated management plans. [LB528]

SENATOR HADLEY: I would hope they would, that they don't end up getting over the cliff and then suddenly say we need to do it. [LB528]

RON BISHOP: Yeah. I think all of the districts have that same opinion, Senator, and we're going to see...we're going to see some very positive, proactive approaches by the natural resources districts that haven't yet been declared fully appropriated. [LB528]

SENATOR HADLEY: Thank you. [LB528]

SENATOR CORNETT: Senator Louden. [LB528]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Well, thanks for coming today, Ron. [LB528]

RON BISHOP: You bet. [LB528]

SENATOR LOUDEN: And as far as your dress, I'd say you're the one that looks like a NRD manager. [LB528]

RON BISHOP: (Laugh) [LB528]

SENATOR LOUDEN: And out of the two bills, LB528 and LB527, which do you prefer? [LB528]

RON BISHOP: Senator, I prefer LB527 because it gives those natural resources districts that are trying to be proactive and develop their integrated management plans,

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it gives them that authority, too, and I think they need...many of them need that authority, that additional 3 cent, in order to get their plans developed and try and determine the destiny of water resources within their area before we get to a crisis. [LB528]

SENATOR LOUDEN: Okay. [LB528]

RON BISHOP: But I also, personally, would like to see you move both of them out just in case something happens to LB527, because LB528 is critical to us. It's absolutely critical. [LB528]

SENATOR LOUDEN: And that's what I mean. LB528 does the job that needs to be done. [LB528]

RON BISHOP: Yes. [LB528]

SENATOR LOUDEN: LB527 has a little bit of frills in there that may or not be needed because you already have the authority to start into an integrated management plan without having to be fully appropriated. And that's the reason I was wondering if there is...as they've both been introduced and you've been around this business for about as long as anybody I know of, which was your preference. [LB528]

RON BISHOP: I've been around even longer than that, Senator. (Laughter) [LB528]

SENATOR LOUDEN: Okay. Thank you. [LB528]

RON BISHOP: Yeah, I...well, to restate it again, my preference would be LB527, but I'd like to see this bill come out of committee, too, just in case something happens to LB527. I think there's a need for LB527 but there's a crying need for LB528. We have to be able to continue to partner with the state to meet our commitments on the Platte River program and on the other streams, so... [LB528]

SENATOR LOUDEN: What effect is...the other day we worked on legislation to do away with any aid to the NRDs. What effect will that have? I mean how much of this are you going to have to soak up in order to cover what the state isn't going to pay? [LB528]

RON BISHOP: Yeah, that's why LB527 and LB528 are so important, that we're going to have to make it up with local funds. The state assistance that we're probably not going to get we're going to have to make up with local funds. And so if we're in the middle of trying to meet the water demands or those other districts are in the middle of trying to develop a sensible integrated management plan before they are in a disaster state and we're not getting the state aid, the 3 cents becomes even more important that we be able to raise that locally. [LB528]

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SENATOR LOUDEN: Now is any of that mandated that has to be done that was covered by state aid before? [LB528]

RON BISHOP: Well, the state aid went toward our general operations. We got a pretty good chunk out in Central Platte of that state aid from...through natural resources districts. We'll just have to make it up with local property or not do some of the things. The water things are so important we're going to continue to do them, but we need the authority to be able to raise those funds locally, like LB527 and LB528 calls for. [LB528]

SENATOR LOUDEN: Okay. Thank you, Ron. [LB528]

RON BISHOP: Uh-huh. [LB528]

SENATOR CORNETT: Senator Fischer. [LB528]

SENATOR FISCHER: Thank you, Senator Cornett. Thank you, Mr. Bishop, for being here. Just a few short questions; hopefully, I'll get short answers from you. When you go through the integrated management planning process, as your district has been required to do, is that expensive? [LB528]

RON BISHOP: It's very time-consuming so it's expensive from the standpoint of staff time, the paid staff time. It can also be a little expensive or a little costly when you gather some of the data, especially if it's not readily available and you have to go out and develop that data. [LB528]

SENATOR FISCHER: When you work with DNR in the process you go through with an IMP, do you think they have the needed funds if we were going to require all NRDs to have an integrated management plan? [LB528]

RON BISHOP: I don't think they have the staff to do it in a reasonable amount of time. They were very helpful to us when we developed our IMP and I know they are working with some of the folks that haven't been declared fully appropriated but are trying to be proactive. But they do have limited staff. [LB528]

SENATOR FISCHER: You know, I appreciate the NRDs stepping up and trying to look at how to fund your charge in managing water in this state. Do you believe that we're putting enough money into water at the state level? [LB528]

RON BISHOP: Definitely not, Senator. Definitely not. [LB528]

SENATOR FISCHER: How do you think we're going to meet our commitments then, such as the Platte River Recovery Implementation Program, if the state doesn't have

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the money to honor that contract? [LB528]

RON BISHOP: I don't think you're going to be able to meet them because the natural resources districts out there are willing, especially with the 3-cent authority and with the occupation tax type authorities, we're willing to do a share of that but we can't meet the total commitment and so it's going to have to be a partnership between the states and the natural resources districts, and a partnership just not in name but a partnership in money. [LB528]

SENATOR FISCHER: And what is your levy on the residents in your NRD right now for their property taxes? [LB528]

RON BISHOP: It's right at 5 cents. It's right at 5 cents, but I see that going up in the next few years primarily because of the water issues. Some of the districts that are in our basin up there are up considerably higher than we are. They're using most, if not all, of that 3-cent levy. [LB528]

SENATOR FISCHER: Is that...why are they having to tax their residents at that higher levy? Is it to meet requirements under the IMPs, because your area and all around you, you are over or fully appropriated? Is that to continue to meet those requirements or is it for other reasons? [LB528]

RON BISHOP: It's to meet the requirements of LB962, the fully and overappropriated, especially the overappropriated area, and the requirements of the Platte River Program. We have to supply...we have to return the river back to the condition it was in 1997. That's going to take water. And so we're all out there busy trying to come up with ways to put more water in the river. The way we've chosen, and other districts out there are going, to moving toward is to acquiring water rights from individuals. [LB528]

SENATOR FISCHER: And who is requiring you to return that water to the river at those 1997 levels? [LB528]

RON BISHOP: The state through LB962 and through the cooperative agreement with the other states on the Platte River. [LB528]

SENATOR FISCHER: Okay. Thank you, Mr. Bishop. [LB528]

RON BISHOP: Uh-huh. [LB528]

SENATOR CORNETT: Further questions? Seeing none, thank you, Mr. Bishop. [LB528]

RON BISHOP: Thank you very much. [LB528]

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SENATOR CORNETT: And do not worry about the attire at all. [LB528]

SENATOR HADLEY: Look good to me. [LB528]

SENATOR CORNETT: Next proponent. [LB528]

DENNIS SCHUETH: Dennis Schueth, Upper Elkhorn Natural Resources District, S-c-h-u-e-t-h. I just wanted to take a little time on the third map which also correlates to LB528. (Exhibit 3) If you had an opportunity to flip back, the importance of, as I testified earlier on LB527, the area that was included in our district again is highlighted on your left-hand sheet. That is what the original ELM Model predicted for the Upper Elkhorn NRD. The hotter the color, the more stream depletion factor a groundwater pumping well had on a stream. So the continuation of the ELM Model into Phase II is what is shown on the right-hand side. That is the progress that has been made by additional data that has been put into the ELM Model through the natural resources districts. And so I, as customers are coming into our district, I say, well, now we have the dinosaur map because it looks like an old dinosaur. But for your local NRDs to do something locally, if they wanted to manage different areas of your district a little bit different, we could use and manage the area that is green different than the orange or the hot color. Well, if you look back to what Phase I, a lot of our district was included in the hot red, hot orange or the hot colors, so you look at how the model has developed within a year and a half. And so that's why, you know, we talk about the funding and the modeling that needs to be done. And what I said on a local NRD basis, for our district, if we keep progressing with the model and cooperating with various agencies, we will not have as much impact within our area for groundwater use or surface water use. So if we can confine that to a smaller area, that's great for the state of Nebraska. And so I just wanted to come up and say, you know, we're in support of LB528 also. We would hope that you'd move, like Ron Bishop said, both of them. Our preference is LB527, so we hope something gets moved out. But I just wanted to come in, I did not spend time on the third map, but that's what the effects of doing and continuing on with the modeling process. It's very helpful. And with that, Senator Cornett, I'm done. [LB528]

SENATOR CORNETT: Thank you. Further...or questions from the committee? [LB528]

SENATOR FISCHER: Thank you, Senator Cornett. Dennis, when you talk about modeling, are you paying for that as a natural resources district when you do this modeling? [LB528]

DENNIS SCHUETH: Yes. The numbers that I mentioned before, there's \$1.3 million. Two hundred and some thousand dollars are divided up amongst the eight NRDs proportionately and currently right now in the time frame we will have put in \$30,000 of that. It's about \$30,000 for each of those NRDs. [LB528]

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SENATOR FISCHER: Has the Department of Natural Resources put in any funds for the modeling too? [LB528]

DENNIS SCHUETH: It's a...yes, they have. It's through the IWMPP Fund. [LB528]

SENATOR FISCHER: Which is... [LB528]

DENNIS SCHUETH: That was like \$800,000, I believe. [LB528]

SENATOR FISCHER: Which is what? [LB528]

DENNIS SCHUETH: The Integrated Water Management Program... [LB528]

SENATOR FISCHER: You're in Revenue Committee now so... [LB528]

DENNIS SCHUETH: ...Planning Program, yes. [LB528]

SENATOR FISCHER: Okay. And both your NRD and the Department of Natural Resources, you both share then in the results that you come up with, with modeling,... [LB528]

DENNIS SCHUETH: Yes. [LB528]

SENATOR FISCHER: ...in order to make decisions on water management, correct? [LB528]

DENNIS SCHUETH: Yes. Yep. [LB528]

SENATOR FISCHER: Okay. Thank you. [LB528]

DENNIS SCHUETH: Thank you. [LB528]

SENATOR CORNETT: Further questions? Seeing none, thank you so much. [LB528]

DENNIS SCHUETH: Thank you very much, Senator. [LB528]

SENATOR CORNETT: Next proponent? [LB528]

JOHN HANSEN: Again, Madam Chairman and 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 appear before you today as our organization's president and also lobbyist. We are in support of LB528. We are in support of LB527. What is the better way to actually get the ball moved forward across the finish line successfully, I leave

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that to your good judgment. There's lots of ways to skin a cat, I know that. And I would also say that I believe that if my math is right that I have been working with Ron Bishop on NRD issues now for 37 years and I've learned in 37 years it's always better to let Ron go first if you're going to testify. And I have done time as a chair of the Lower Elkhorn NRD budget and legislative committee and as you look at these issues, it is very difficult when you look at the natural resources challenges that an NRD has and you're trying to prioritize what gets first billing and what gets first money and what runs short. And so if you don't have the necessary additional resources in order to be able to do an integrated management plan, the natural pressure between all of those competing, when you think about it all are high priority needs--is flood control not important, is basic soil conservation not important--you go through that whole list of things from a natural resources base, it is a bit trying to figure out what is the most important and most urgent of all of those things. And so if districts don't have those resources then they're up against shorting their other resources needs in order to be able to move forward. And so that's part of the logic of our position as well is that, you know, we want all of those things done. And that since we're sort of in the Natural Resources Committee but not today, I would tell you that several years ago I testified at the national level on conservation cost-share programs, along with the head of the National Association of Conservation Districts, and I opined based on my research that Nebraska was in fact the only state in the nation that actually spent more local and state dollars protecting our natural resources in one form or another than we receive in federal conservation cost-share dollars and that that was a credit to our natural resources district and that sometimes we take NRDs for granted but we are unique in that way. And we think that, all told, that the natural resources districts have used extremely good judgment for the most part and we salute their efforts and the good work that they do on behalf of our natural resources and future generations. And with that, I would close and answer any questions if you have any. [LB528]

SENATOR CORNETT: Questions? See none, Mr. Hansen. [LB528]

JOHN HANSEN: Thank you. [LB528]

SENATOR CORNETT: Next proponent? Any further proponents? Any opponents? Anyone in a neutral capacity? Senator Carlson waived closing on this one, correct? Thank you. That closes the hearings for today. [LB528]